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Crimes against humanity

Information on existing treaty-based monitoring mechanisms which may be of relevance to the future work of the International Law Commission

Memorandum by the Secretariat

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I. Introduction

1. At its sixty-sixth session (2014), the International Law Commission decided to include the topic "Crimes against humanity" in its programme of work.[1] At its sixty-seventh session (2015), the Commission requested the Secretariat to prepare a memorandum providing information on existing treaty-based monitoring mechanisms which might be of relevance to its future work on the topic.[2] The present memorandum has been prepared in fulfilment of that request.

2. In his first report, the Special Rapporteur identified a number of multilateral conventions that promote prevention, criminalization and inter-State cooperation with respect to acts which were considered relevant for the Commission's work on the topic.[3] The present memorandum provides a survey of provisions in these multilateral conventions that institute monitoring mechanisms. A number of further instruments have been added to the survey on the basis of their relevance to the present memorandum, including optional protocols to the above-mentioned multilateral conventions, and regional treaties pertaining to human rights that contain treaty-based monitoring mechanisms. Each of the universal and regional monitoring mechanisms identified and described in the present memorandum plays a unique role within its sphere of competence. Comparative analysis has been carried out exclusively on the basis of the text of the relevant treaty provisions, and no judgments made or implied regarding the relative merits of the various mechanisms and their functioning.

3. The present memorandum focuses exclusively on the text of the relevant treaties and does not address their application or their interpretation by the respective monitoring institutions. Furthermore, the memorandum examines only the institutions established by the relevant treaties and does not address provisions, such as compromissory clauses, involving other institutions.[4] Similarly, the scope of

[1] A/69/10, para. 266.
[2] Ibid., para. 115.
[3] A/CN.4/680, paras. 65-77.
[4] See, for example, the International Convention on the Elimination of All Forms of Racial Discrimination, United Nations, *Treaty Series*, vol. 660, No. 9464, p. 195 ("Convention on Racial Discrimination"), article 22; the Convention on the Prevention and Punishment of the Crime of Genocide, United Nations, *Treaty Series*, vol. 78, No. 1021, p. 277, article IX; the International Convention on the Suppression and Punishment of the Crime of Apartheid, United Nations, *Treaty Series*, vol. 1015, No. 14861, p. 243 ("Apartheid Convention"), article XII; the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, United Nations, *Treaty Series*, vol. 1035, No. 15410, p. 167, article 13(1); the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, United Nations, *Treaty Series*, vol. 1465, No. 24841, p. 85, ("Torture Convention"), article 30(1); the Convention on the Safety of United Nations and Associated Personnel, United Nations, *Treaty Series*, vol. 2051, No. 35457, p. 363, article 22(1); the United Nations Convention against Transnational Organized Crime, United Nations, *Treaty Series*, vol. 2225, No. 39574, p. 209, article 35(2); the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, United Nations, *Treaty Series*, vol. 2237, No. 39574, p. 319, article 15(2); and the International Convention for the Protection of all Persons from Enforced Disappearance, United Nations, *Treaty Series*, vol. 2716, No. 48088, p. 3, ("Convention on Enforced Disappearance"), article 42(1). Furthermore, the present memorandum does not address dispute settlement provisions involving other third-party mechanisms, such as good offices; see the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, United Nations, *Treaty Series*, vol. 75, No. 970, p. 31, article 11; the Geneva

the present memorandum does not extend to monitoring mechanisms whose mandates are derived from instruments other than the relevant treaties, such as the special procedures of the Human Rights Council operating on the basis of resolutions of the Council.[5] Finally, the memorandum is concerned only with mechanisms that monitor the implementation or application of the relevant treaties by the States parties.[6]

4. Section II of this memorandum includes a typology of the various institutions established by the relevant treaties to monitor their implementation. Section III describes the various procedures that such institutions may undertake in this regard. The first annex contains a chronological list of the treaties considered in the memorandum and the monitoring institutions thereby established, while the second annex contains a synoptic table of the monitoring procedures exercised by the institutions under review.

II. Typology of relevant institutions

5. The present section provides an overview of the types of institutions established by (or resorted to) in the relevant treaties. It examines their institutional features, including their composition, mandate and reporting obligations. On the basis of the terminology employed by the respective treaties, such institutions can be classified into the following categories: (a) committees; (b) commissions; (c) courts; and (d) meetings of States parties.

A. Committees

6. A number of the treaties under review have established committees of independent experts. These include, in order of establishment: the Committee on the Elimination of Racial Discrimination, established under article 8(1) of the International Convention on the Elimination of All Forms of Racial Discrimination ("Convention on Racial Discrimination");[7] the Human Rights Committee, established under article 28 of the International Covenant on Civil and Political Rights[8] and vested with further competence by the first[9] and second[10] Optional Protocols thereto;

Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, United Nations, *Treaty Series*, vol. 75, No. 971, p. 85, article 11; the Geneva Convention relative to the Treatment of Prisoners of War, United Nations, *Treaty Series*, vol. 75, No. 972, p. 135, article 11; and the Geneva Convention relative to the Protection of Civilian Persons in Time of War, United Nations, *Treaty Series*, vol. 75, No. 973, p. 287, article 12.

[5] See Human Rights Council resolution 5/1 of 18 June 2007 (A/62/53, chap. IV, sect. A).

[6] Therefore, the present memorandum does not consider the various instruments instituting international criminal courts and tribunals, with the exception of the provisions of the Rome Statute of the International Criminal Court concerning the Assembly of States Parties (United Nations, *Treaty Series*, vol. 2187, No. 38544, p. 3); see section II.D below.

[7] United Nations, *Treaty Series*, vol. 660, No. 9464, p. 195.

[8] Ibid., vol. 999, No. 14668, p. 171.

[9] Ibid. For the purposes of the present memorandum, even though the first and second Optional Protocols to the International Covenant on Civil and Political Rights were not mentioned in the first report of the Special Rapporteur, the Protocols will be considered, given their relationship to the International Covenant on Civil and Political Rights and their relevance to the subject matter of the present memorandum.

[10] Ibid., vol. 1642, No. 14668, p. 414. See footnote 9 above.

the Committee on the Elimination of Discrimination against Women, established under article 17(1) of the Convention on the Elimination of All Forms of Discrimination against Women ("Convention on Discrimination against Women")[11] and vested with further competence by the Optional Protocol thereto ("Optional Protocol to the Convention on Discrimination against Women");[12] the Committee against Torture, established under article 17(1) of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("Torture Convention");[13] the Committee on the Rights of the Child, established under article 43(1) of the Convention on the Rights of the Child,[14] which also monitors the implementation of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict[15] and the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography,[16] and which was vested with further competence by the Optional Protocol to the Convention on the Rights of the Child on a communications procedure;[17] the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of the Committee against Torture ("Subcommittee on Prevention of Torture"), established under article 2(1) of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment of Punishment ("Optional Protocol to the Torture Convention");[18] and the Committee on Enforced Disappearances, established under article 26(1) of the International Convention for the Protection of All Persons from Enforced Disappearance ("Convention on Enforced Disappearance").[19] In addition, the Committee for the prevention and the punishment of the crime of genocide, war crimes and crimes against humanity and all forms of discrimination ("Great Lakes Region Committee") was established under articles 26(1) and 27 of the Protocol for the Prevention and the Punishment of the Crime of Genocide, War Crimes and Crimes Against Humanity and all forms of Discrimination ("Great Lakes Region Protocol"), adopted by the International Conference on the Great Lakes Region on 29 November 2006.[20]

1. Composition

7. All committees mentioned above are composed of nationals of the States parties to their constitutive instruments.[21] With the exception of the Great Lakes

[11] Ibid., vol. 1249, No. 20378, p. 13.

[12] Ibid., vol. 2131, No. 20378, p. 83. For the purposes of the present memorandum, this instrument is considered owing to its relationship to the Convention on Discrimination against Women and its relevance to the subject matter of the present memorandum.

[13] Ibid., vol. 1465, No. 24841, p. 85.

[14] Ibid., vol. 1577, No. 27531, p. 3.

[15] United Nations, *Treaty Series*, vol. 2173, No. 27531, p. 222.

[16] Ibid., vol. 2171, No. 27531, p. 227.

[17] General Assembly resolution 66/138, annex. For the purposes of the present memorandum, this instrument is considered owing to its relationship to the Convention on the Rights of the Child and its relevance to the subject matter of the present memorandum.

[18] United Nations, *Treaty Series*, vol. 2375, No. 24841, p. 237.

[19] Ibid., vol. 2716, No. 48088, p. 3.

[20] Available from www.icglr.org/images/LastPDF/Protocol_on_Crime_Prevention_and_Punishment_of_the_Crime_of_Geno.pdf (last visited 1 March 2016).

[21] Convention on Racial Discrimination, art. 8(1); International Covenant on Civil and Political Rights, art. 28(2); Convention on Discrimination against Women, art. 17(1); Torture Convention, art. 17(2); Convention on the Rights of the Child, art. 43(2); Optional Protocol to the Torture Convention, art. 6; Great Lakes Region Protocol, art. 27; Convention on Enforced Disappearance, art. 26(2).

Region Committee, committee members are nominated and elected by the States parties to the respective instrument.[22] The above-mentioned treaties also specify that committee members must demonstrate certain individual qualities, such as high moral standing or character;[23] competence in the field relevant to the treaty;[24] and commitment to impartiality and to serve in their personal capacity.[25] The treaties in question also highlight some requirements with respect to the overall composition of their respective committees, with reference to the concepts of equitable geographical distribution,[26] representation of the different forms of civilization,[27] representation of the principal legal systems, or balanced gender representation.[28] Further, the Torture Convention points out the "usefulness of nominating persons [to the Committee against Torture] who are also members of the Human Rights Committee".[29]

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[22] Members of the Great Lakes Region Committee are endorsed by the Summit of the International Conference on the Great Lakes Region (the supreme organ of the Conference), on the recommendation of the Inter-Ministerial Committee (the executive organ of the Conference) (Great Lakes Region Protocol, arts. 27 and 30). See also Convention on Racial Discrimination, art. 8(2) and (4); International Covenant on Civil and Political Rights, arts. 29(1) and 30 (4); Convention on Discrimination against Women, art. 17(2) and (4); Torture Convention, art. 17(2) and (3); Convention on the Rights of the Child, art. 43(2) and (5); Optional Protocol to the Torture Convention, art. 7; Convention on Enforced Disappearance, art. 26(1) and (2).

[23] Convention on Racial Discrimination, art. 8(1); International Covenant on Civil and Political Rights, art. 28(2), which uses "high moral character"; Convention on Discrimination against Women, art. 17 (1); Torture Convention, art. 17(1); Convention on the Rights of the Child, art. 43(2); Optional Protocol to the Torture Convention, art. 5(2), which uses "high moral character"; Great Lakes Region Protocol, art. 27(1), which uses "high moral standards"; Convention on Enforced Disappearance, art. 26(1), referring to "high moral character".

[24] Convention on Racial Discrimination, art. 8(1), making reference to "experts"; International Covenant on Civil and Political Rights, art. 28(2); Convention on Discrimination against Women, art. 17(1); Torture Convention, art. 17(1); Convention on the Rights of the Child, art. 43(2); Optional Protocol to the Torture Convention, art. 5(2); Great Lakes Region Protocol, art. 27(1); Convention on Enforced Disappearance, art. 26(1).

[25] Convention on Racial Discrimination, art. 8(1), which makes reference to "acknowledged impartiality" and that the members "shall serve in their personal capacity"; International Covenant on Civil and Political Rights, arts. 28(3) and 38, which sets forth an obligation on the members to make a solemn declaration before taking up their duties that they will perform their functions impartially and conscientiously; Convention on Discrimination against Women, art. 17(1); Torture Convention, art. 17(1); Convention on the Rights of the Child, art. 43(2); Optional Protocol to the Torture Convention, art. 5(6), which expressly states that the members shall not only serve in their individual capacity, but also "be independent and impartial and shall be available to serve the Subcommittee on Prevention of Torture efficiently"; Great Lakes Region Protocol, arts. 27 and 32, referring to the members' "impartiality" in addition to sitting in their personal capacity; Convention on Enforced Disappearance, art. 26(1), which makes express reference to serving "in their personal capacity and be independent and impartial."

[26] Convention on Racial Discrimination, art. 8(1); International Covenant on Civil and Political Rights, art. 31(2); Convention on Discrimination against Women, art. 17(1); Torture Convention, art. 17(1), Optional Protocol to the Torture Convention, art. 5 (3); Convention on Enforced Disappearance, art. 26(1).

[27] Convention on Racial Discrimination, art. 8(1); International Covenant on Civil and Political Rights, art. 31(2); Convention on Discrimination against Women, art. 17(1); Optional Protocol to the Torture Convention, art. 5(3); Convention on the Rights of the Child, art. 29(1)(c).

[28] Optional Protocol to the Torture Convention, art. 5(4); Convention on Enforced Disappearance, art. 26(1).

[29] Torture Convention, art. 17(2).

2. Mandate

8. Two of the above-mentioned committees enjoy a general mandate to consider the progress made "in the implementation of"[30] or "in the realization of the obligations undertaken in"[31] their respective conventions. The mandates of other committees may be implied from their functions[32] as set out in their constitutive treaties and, where applicable, the optional protocols to the main treaty.[33] Overall, committees usually exercise the following functions: examination of reports submitted by States parties;[34] adoption of general comments/recommendations;[35] consideration of individual complaints;[36] assessment of inter-State complaints;[37] inquiries and/or visits;[38] urgent action requests;[39] and bringing information to the attention of assemblies.[40] The mandate of the Subcommittee on Prevention of Torture is limited to the monitoring of places of detention in States parties to the Optional Protocol to the Torture Convention and provision of advice on preventive mechanisms,[41] while the Great Lakes Region[42] Committee is entrusted with the prevention of crimes of genocide, war crimes and

[30] Convention on Discrimination against Women, art. 17(1).
[31] Convention on the Rights of the Child, art. 43(1).
[32] See section III of the present memorandum.
[33] This is the case of the Human Rights Committee and of the Committee on the Rights of the Child.
[34] Convention on Racial Discrimination, art. 9; International Covenant on Civil and Political Rights, art. 40; Convention on Discrimination against Women, art. 18; Torture Convention, art. 19; Convention on the Rights of the Child, art. 44; Convention on Enforced Disappearance, art. 29.
[35] Convention on Racial Discrimination, art. 9(2) (makes reference to "general recommendations"); International Covenant on Civil and Political Rights, art. 40 (4) (makes reference to "general comments"); Convention on Discrimination against Women, art. 21 (makes reference to "general recommendations"); Torture Convention, art. 19 (3) (makes reference to "general comments"); Convention on the Rights of the Child, art. 45 (d) (makes reference to "general recommendations").
[36] Convention on Racial Discrimination, art. 14; Optional Protocol to the International Covenant on Civil and Political Rights, art. 1; Optional Protocol to the Convention on Discrimination against Women, arts. 1 and 2; Torture Convention, art. 22; Convention on Enforced Disappearance, art. 31; Optional Protocol to the Convention on the Rights of the Child on a communications procedure, art. 5.
[37] Convention on Racial Discrimination, art. 11; International Covenant on Civil and Political Rights, art. 41; Torture Convention, art. 21; Convention on Enforced Disappearance, art. 32; Optional Protocol to the Convention on the Rights of the Child on a communications procedure, art. 12.
[38] Torture Convention, art. 20; Optional Protocol to the Convention on Discrimination against Women, art. 8; Convention on Enforced Disappearance, art. 33; Optional Protocol to the Convention on the Rights of the Child on a communications procedure, art. 13.
[39] Convention on Enforced Disappearance, art. 30.
[40] Ibid., art. 34.
[41] Optional Protocol to the Torture Convention, arts. 1 and 4. The mandate may be divided primarily into two functions: visits to States parties to the Protocol, during which the Subcommittee may visit places where individuals may be deprived of their liberty; and the advisory function, involving assistance and advice to the States parties on the establishment of a national preventive mechanism, as well as advice and assistance to the States parties and to the national preventive mechanism regarding the work of the mechanism.
[42] Great Lakes Region Protocol, arts. 26(1) and 38. As a result, the Protocol confers on the Great Lakes Region Committee the responsibility to review situations in the member States of the International Conference on the Great Lakes Region; collect and analyse information; alert the Summit of the Conference in order for it to take urgent measures to prevent potential crimes; suggest specific measures to fight impunity; contribute to awareness-raising and education on peace and reconciliation through regional and national programmes; recommend policies and measures to guarantee the rights of victims; monitor national programmes for the disarmament, demobilization, rehabilitation, repatriation and reinstallation of former child soldiers and combatants; and carry out any other task entrusted in it by the Inter-Ministerial Committee.

crimes against humanity in the Great Lakes Region. Certain other procedures, such as the early warning mechanisms of the Convention on the Elimination of All Forms of Racial Discrimination, have emerged from the practice of the institutions analysed.[43]

9. To foster effective implementation of their mandates, some committees are explicitly authorized by their constitutive instruments to seek cooperation with other committees, organs, offices or agencies. For example, the Committee on the Rights of the Child may invite the United Nations Children's Fund and other competent bodies to provide expert advice or submit reports in relevant areas.[44] It may also, through the General Assembly, request the Secretary-General to undertake studies on specific issues relating to the rights of the child.[45] Furthermore, together with certain other committees, the Committee on the Rights of the Child is mandated to transmit to competent bodies reports from States parties that contain a request or indicate a need for technical advice or assistance.[46] Similarly, the Subcommittee on Prevention of Torture and the Committee on Enforced Disappearances are explicitly instructed to execute their mandates in cooperation with international, regional and national institutions.[47]

10. The committees typically report on their activities on an annual[48] or biennial[49] basis. Most of those committees submit their reports to the General Assembly of the United Nations, either directly[50] or through another United Nations organ, such as the Secretary-General[51] or the Economic and Social Council.[52] In addition, the Committee against Torture and the Committee on Enforced Disappearances report directly to the States parties to their respective conventions.[53] The Subcommittee on Prevention of Torture submits an annual report to the Committee against Torture[54] and the Great Lakes Region Committee reports to the ordinary session of the Inter-Ministerial Committee of the International Conference on the Great Lakes Region preceding the ordinary session of the Summit.[55]

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[43] According to the Guidelines for the Early Warning and Urgent Action Procedure (A/62/18, annex III, para. 1), in 1993 "the Committee on the Elimination of Racial Discrimination adopted a working paper on the prevention of racial discrimination, including early warning and urgent procedures (A/48/18, annex III)". Since 1993, the Committee has adopted numerous decisions under those procedures and made recommendations to States parties to the International Convention on the Elimination of All Forms of Racial Discrimination as well as, through the Secretary-General, to the Security Council for action to prevent serious violations of the Convention, in particular those that could lead to ethnic conflict and violence. See also A/48/18, annex III, and A/47/628, para. 44.

[44] Convention on the Rights of the Child, art. 45(a).

[45] Ibid., art. 45(c).

[46] Ibid., art. 45(b).

[47] See, respectively, Optional Protocol to the Torture Convention, art. 11(1)(c); and Convention on Enforced Disappearance, art. 28.

[48] Convention on Racial Discrimination, art. 9(2); International Covenant on Civil and Political Rights, art. 45; Convention on Discrimination against Women, art. 21(1); Torture Convention, art. 24; Convention on Enforced Disappearance, art. 36(1);

[49] Convention on the Rights of the Child, art. 44(5).

[50] Torture Convention, art. 24; Convention on Enforced Disappearance, art. 36(1).

[51] Convention on Racial Discrimination, art. 9(2).

[52] International Covenant on Civil and Political Rights, art. 45; Convention on Discrimination against Women, art. 21(1); Convention on the Rights of the Child, art. 44(5).

[53] Torture Convention, art. 24; Convention on Enforced Disappearance, art. 36(1).

[54] Optional Protocol to the Torture Convention, art. 16(3).

[55] Great Lakes Region Protocol, arts. 22, 23, 24, and 42.

B. Commissions

11. A number of the treaties under review vest monitoring functions in commissions. These include the ad hoc conciliation commissions that may be established under the Convention on Racial Discrimination and the International Covenant on Civil and Political Rights through their respective committees and in the specific cases listed in those conventions;[56] the Inter-American Commission on Human Rights,[57] performing monitoring functions under the American Convention on Human Rights "Pact of San Jose, Costa Rica";[58] the Commission on Human Rights (superseded by the Human Rights Council),[59] a subsidiary body of the Economic and Social Council of the United Nations, which was entrusted by the International Convention on the Suppression and Punishment of the Crime of Apartheid ("Apartheid Convention") to monitor its implementation;[60] and the African Commission on Human and Peoples' Rights, established under the African Charter on Human and Peoples' Rights, under the auspices of the African Union (formerly the Organization of African Unity).[61] Furthermore, the International Humanitarian Fact-Finding Commission was established under the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) ("Additional Protocol I").[62]

12. It should also be recalled that the European Commission of Human Rights, established by the Convention for the Protection of Human Rights and Fundamental Freedoms ("European Convention on Human Rights")[63] upon its entry into force in 1954, was abolished by Protocol 11 to the Convention in 1998.[64]

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[56] Convention on Racial Discrimination, art. 12; International Covenant on Civil and Political Rights, art. 42.

[57] The Inter-American Commission on Human Rights was first established by resolution VIII of the Fifth Meeting of Consultation of Ministers of Foreign Affairs in Santiago de Chile (August 1959), Final Act, OAS document OEA/Ser.C/II.5 (1960). It was incorporated into article 112 (currently article 106) of the Charter of OAS (United Nations, *Treaty Series*, vol. 119, No. 1609, p. 3) by the Protocol of amendment to the Charter of the Organization of American States — "Protocol of Buenos Aires" (United Nations, *Treaty Series*, vol. 721, No. 1609, p. 324). Following the entry into force of the American Convention on Human Rights on 18 July 1978, the General Assembly of OAS approved, in October 1979, the Statute of the Inter-American Commission on Human Rights, OAS resolution 447 (IX-0/79), OAS document OEA/Ser.P/IX.0.2/80.

[58] United Nations, *Treaty Series*, vol. 1144, No. 17955, p. 123, art. 33.

[59] See General Assembly resolution 60/251 of 15 March 2006.

[60] In 1995, the Commission on Human Rights, stating that "apartheid as defined by the International Convention on the Suppression and Punishment of the Crime of Apartheid no longer exists anywhere" and that "potential situations of practices of racial segregation that might exist outside South Africa" would be covered by the Convention on Racial Discrimination, decided to "suspend meetings of the Group of Three as from the date of adoption of the present resolution". See Commission on Human Rights resolution 1995/10 of 17 February 1995 (E/CN.4/1995/76, chap. II, sect. A).

[61] United Nations, *Treaty Series*, vol. 1520, No. 26363, p. 217, art. 30.

[62] Ibid., vol. 1125, No. 17512, p. 3; art. 90.

[63] Ibid., vol. 213, No. 2889, p. 221.

[64] Ibid., vol. 2061, No. 2889, p. 7.

1. Composition

13. The composition of the above-mentioned commissions varies. The ad hoc conciliation commissions under the Convention on Racial Discrimination and the International Covenant on Civil and Political Rights are established only in response to particular disputes.[65] This approach affects their composition. Both the Convention on Racial Discrimination and the International Covenant on Civil and Political Rights provide for five-member commissions, none of whose members may be a national of the States parties involved in the dispute.[66] Members are appointed by the Chairman of the Committee on the Elimination of Racial Discrimination or by the Human Rights Committee, respectively. They do not necessarily have to be members of the respective committees, but they must be nationals of States parties to the respective conventions and, in the case of the International Covenant on Civil and Political Rights, of States that have deposited a declaration accepting the competence of the Human Rights Committee to receive and consider inter-State communications under article 41.[67] Moreover, the States parties concerned must consent to the appointment of the members; if they fail to reach agreement on the composition of the Commission within three months, the Committee on the Elimination of Racial Discrimination or the Human Rights Committee, respectively, may elect the remaining commission members by secret ballot with a two-thirds majority from among their own members.[68]

14. The Inter-American Commission on Human Rights consists of seven members from different States members of the Organization of American States (OAS),[69] who are elected for four-year terms by the OAS General Assembly to represent all the member countries of OAS.[70] Similarly, the African Charter on Human and Peoples' Rights provides that the 11 members of the African Commission on Human and Peoples' Rights, who serve six-year periods and must be nationals of different States parties to the Charter, are to be "chosen from among African personalities" by the Assembly of Heads of State and Government of the African Union.[71]

15. The Apartheid Convention vested monitoring tasks with the Commission on Human Rights, but also instructed the Chairman of the Commission to appoint a "group" of three Commission members, who were representatives of the States parties to the Convention, to consider reports submitted by States parties.[72] If there were fewer than three representatives of States parties to the Convention among the members of the Commission, the Secretary-General of the United Nations, after consulting all States parties to the Convention, should designate to the "group" one or more representatives of States parties which were not members of the Commission.[73]

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[65] Convention on Racial Discrimination, art. 12(1)(a); International Covenant on Civil and Political Rights, art. 42(1)(a).

[66] Convention on Racial Discrimination, art. 12(1)(a), 12(1)(b) and 12(2); International Covenant on Civil and Political Rights, art. 42(1)(a), 42(1)(b) and 42(2).

[67] Convention on Racial Discrimination, art. 12(1)(a) and 12(2); International Covenant on Civil and Political Rights, art. 42(1)(a) and 42(2).

[68] Convention on Racial Discrimination, art. 12(1)(a) and 12(1)(b); International Covenant on Civil and Political Rights, art. 42(1)(a) and 42(1)(b).

[69] American Convention on Human Rights, arts. 34 and 36(2).

[70] Ibid., arts. 34, 35, 36(1), 37(1) and 37(2). Members are eligible for re-election once.

[71] African Charter on Human and Peoples' Rights, arts. 30, 31(1), 31(2), 32, 33, 34 and 36.

[72] Apartheid Convention, arts. X(1) and IX(1).

[73] Ibid., art. IX(2).

Although the Convention is still in force, the "group of three" suspended its functions in 1995.[74]

16. The International Humanitarian Fact-Finding Commission is a permanent body of 15 members who are elected among the States parties to Additional Protocol I. It undertakes enquiries through specially constituted chambers consisting of seven members.[75] Five members of the chambers are appointed by the President of the Commission from among its ranks, while the parties to the dispute each appoint one additional ad hoc member. Additional Protocol I provides that none of the members of the chambers can be a national of one of the parties to the conflict.[76]

17. The treaties under review typically provide that the members of the commissions must serve in their personal capacity,[77] be impartial,[78] be of high moral standing[79] and/or possess appropriate qualifications.[80] The American Convention on Human Rights and Additional Protocol I to the Geneva Conventions further require equitable geographical distribution of Commission members.[81]

2. Mandate

18. The above-mentioned treaties also contain different provisions regarding the competence of the respective commissions.

19. The ad hoc conciliation commissions under the Convention on Racial Discrimination and the International Covenant on Civil and Political Rights are established to resolve inter-State matters related to the provisions or obligations under the respective treaties that could not be resolved to the satisfaction of the States parties in dispute.[82] The good offices of the ad hoc conciliation commissions are to be made available to the States concerned "with a view to an amicable solution of the matter on the basis of respect" for the relevant treaty.[83] In the case of the International Covenant on Civil and Political Rights, it is clear that the States parties concerned must consent prior to the appointment of the commission (article 42(1)(a)). The Convention on Racial Discrimination does not contain an equivalent provision.

20. The American Convention on Human Rights provides that the Inter-American Commission on Human Rights, together with the Inter-American Court of Human Rights, "have competence with respect to matters relating to the fulfilment of the commitments made by the States Parties" to the American Convention on Human

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[74] See above, note 60.
[75] Additional Protocol I, art. 90(1)(a) and (3)(a).
[76] Ibid., art. 90(3)(a)(i) and (ii).
[77] Convention on Racial Discrimination, art. 12(2); American Convention on Human Rights, art. 36(1); International Covenant on Civil and Political Rights, art. 42(2); Additional Protocol I, art. 90(1)(c); African Charter on Human and Peoples' Rights, art. 31(2).
[78] Additional Protocol I, art. 90(1)(a); African Charter on Human and Peoples' Rights, art. 31(1).
[79] American Convention on Human Rights, art. 34; Additional Protocol I, art. 90(1)(a); African Charter on Human and Peoples' Rights, art. 31(1).
[80] American Convention on Human Rights, art. 34; Additional Protocol I, art. 90(1)(d); African Charter on Human and Peoples' Rights, art. 31(1).
[81] American Convention on Human Rights, art. 35; Additional Protocol I, art. 90(1)(d).
[82] Convention on Racial Discrimination, arts. 11(1) and 12; International Covenant on Civil and Political Rights, arts. 41(1) and 42(1)(a).
[83] Convention on Racial Discrimination, art. 12(1)(a); International Covenant on Civil and Political Rights, art. 42(1)(a).

Rights.[84] The Inter-American Commission on Human Rights has as its main function "to promote respect for and defense of human rights".[85] It is vested with a wide range of functions and powers, for instance, to develop an awareness of human rights among the peoples of America, to make recommendations to States members of OAS, to request information on the measures adopted by States parties, to provide advisory services to States parties when requested and within the limits of its possibilities, and to take action on individual petitions and inter-State communications before cases may proceed to the Inter-American Court of Human Rights (if the Court has jurisdiction).[86]

21. When it was operating,[87] the "group of three" established within the Commission on Human Rights by virtue of the Apartheid Convention was responsible for considering the reports submitted by the States parties to the Apartheid Convention "on the legislative, judicial, administrative or other measures" they adopted to give effect to the provisions of the Convention.[88] In addition, the Commission on Human Rights was entrusted by the Apartheid Convention to request United Nations organs to "draw its attention to complaints" filed before the Committee on the Elimination of Racial Discrimination concerning acts enumerated in the Apartheid Convention that constituted "the crime of apartheid";[89] prepare a "list of individuals, organizations, institutions and representatives of States which are alleged to be responsible for [the crime of apartheid], as well as those against whom legal proceedings have been undertaken by States Parties to the Convention";[90] and "request information from the competent United Nations organs concerning measures taken by the authorities responsible for the administration of Trust and Non-Self-Governing Territories, and all other Territories to which General Assembly resolution 1514 (XV) of 14 December 1960 applies, with regard to such individuals alleged to be responsible for [crimes of apartheid] who are believed to be under their territorial and administrative jurisdiction".[91]

22. Under the terms of Additional Protocol I to the Geneva Conventions, the International Humanitarian Fact-Finding Commission has competence to "enquire into any facts alleged to be a grave breach as defined in the Conventions and this Protocol or other serious violation of the Conventions or of this Protocol", and to "facilitate, through its good offices, the restoration of an attitude of respect for the Conventions and this Protocol".[92] The Commission is also empowered, "in other situations", to institute an inquiry at the request of a party to the conflict if the other party or parties concerned consent to such inquiry.[93] The competence of the Commission is optional, in accordance with article 90(2)(a) of Additional Protocol I, as any party "may at the time of signing, ratifying or acceding" to Additional Protocol I, or at any other subsequent time, declare that it recognizes ipso facto and without special agreement, in relation to any other party accepting the same obligation, the competence of the

[84] American Convention on Human Rights, art. 33.
[85] Ibid., art. 41.
[86] Ibid., arts. 41, 44, 48, 50 and 61(2).
[87] See above, note 60.
[88] Apartheid Convention, arts. VII and IX.
[89] Ibid., arts. II and X(1)(a).
[90] Ibid., art. X(1)(b).
[91] Ibid., art. X(1)(c). See also art. II for the definition of the term "the crime of apartheid".
[92] Additional Protocol I, art. 90(2)(c).
[93] Ibid., art. 90(2)(d).

Commission "to enquire into allegations" by such other party. The inquiries are undertaken by a chamber set up within the framework of the Commission, in accordance with article 90(3) of Additional Protocol I.

23. The African Commission on Human and Peoples' Rights was established to "promote human and peoples' rights and ensure their protection in Africa".[94] The African Charter on Human and Peoples' Rights confers various functions on the Commission for that purpose, including the following: to "undertake studies and researches on African problems in the field of human and peoples' rights" and "encourage national and local institutions concerned with human and peoples' rights, and should the case arise, give its views or make recommendations to Governments";[95] to formulate principles and rules "aimed at solving legal problems relating to human and peoples' rights and fundamental freedoms upon which African Governments may base their legislations";[96] and to cooperate with other African and international institutions.[97] The Commission can also interpret the provisions of the Charter "at the request of a State party, an institution of the [African Union] or an African Organization recognized by the [African Union]".[98] The Charter further provides that the Commission may perform any other functions entrusted to it by the Assembly of Heads of State and Government[99] and that it "may resort to any appropriate method of investigation; it may hear from the Secretary General of the [African Union] or any other person capable of enlightening it."[100] Additionally, it provides that the Commission may deal with inter-State communications related to allegations of violations of the provisions of the Charter[101] and with other communications "relating to human and peoples' rights".[102]

24. In terms of reporting obligations, the Inter-American Commission on Human Rights and the African Commission on Human and Peoples' Rights report periodically on their activities to the General Assembly of the Organization of American States and the Assembly of Heads of State and Government of the African Union, respectively.[103] As explained above, the Apartheid Convention made use of the functions of the Commission on Human Rights to monitor the implementation of the convention.[104] The Commission on Human Rights would submit to the Economic and Social Council a report on the work of each session, containing a summary of recommendations and a statement of issues requiring action by the Economic and Social Council.[105]

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[94] African Charter on Human and Peoples' Rights, art. 30.
[95] Ibid., art. 45(1)(a).
[96] Ibid., art. 45(1)(b).
[97] Ibid., art. 45(1)(c).
[98] Ibid., art. 45(3). The language used by this provision actually makes reference to the Organization of African Unity, which was replaced by the African Union.
[99] Ibid., art. 45(4).
[100] Ibid., art. 46.
[101] Ibid., art. 47.
[102] Ibid., art. 56.
[103] American Convention on Human Rights, art. 41(g) and African Charter on Human and Peoples' Rights, arts. 54 and 59(3).
[104] See above, note 60.
[105] Rules of Procedure of the Functional Commissions of the Economic and Social Council, rule 37, at www.ohchr.org/Documents/HRBodies/CHR/RoP.pdf.

C. Courts

25. Three regional conventions adopted under the auspices of regional intergovernmental organizations establish permanent judicial institutions to monitor the conduct of their respective States parties in the implementation of the treaties: the European Court of Human Rights, established by the Convention for the Protection of Human Rights and Fundamental Freedoms ("European Convention on Human Rights")[106] to "ensure the observance of the engagements undertaken by the High Contracting Parties" to the European Convention on Human Rights and the protocols thereto;[107] the Inter-American Court of Human Rights, established by the American Convention on Human Rights to "have competence with respect to matters relating to the fulfilment of the commitments made by the States Parties" to the Convention;[108] and the African Court on Human and Peoples' Rights, established by the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights ("African Charter Protocol"), which complements "the protective mandate of the African Commission on Human and Peoples' Rights".[109]

1. Composition

26. The number of judges at the European Court of Human Rights is equal to that of the parties to the European Convention on Human Rights, and they are elected by the Parliamentary Assembly of the Council of Europe from lists of three candidates proposed by each State party.[110] The Inter-American Court of Human Rights and the African Court on Human and Peoples' Rights draw a fixed number of judges from the States members of their respective organizations.[111] Judges of the Inter-American Court of Human Rights[112] are elected by States parties to the American Convention on Human Rights. Judges of the African Court on Human and Peoples' Rights are elected by the African Union, which may include States not party to the African Charter Protocol. All instruments provide that the judges must be of high moral character[113] and sit in their individual capacity.[114]

2. Jurisdiction

27. The three courts have jurisdiction over matters related to the interpretation and application of their respective treaties.[115] In the case of the African Court on Human and Peoples' Rights, its jurisdiction also extends to the interpretation and

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[106] United Nations, *Treaty Series*, vol. 213, No. 2889, p. 221.

[107] European Convention on Human Rights, art. 19.

[108] American Convention on Human Rights, art. 33. The Inter-American Commission on Human Rights is also competent, as explained above.

[109] African Charter Protocol, art. 2.

[110] European Convention on Human Rights, arts. 20 and 22.

[111] See American Convention on Human Rights, art. 52(1) and African Charter Protocol, art. 11(1).

[112] American Convention on Human Rights, art. 53(1)

[113] European Convention on Human Rights, art. 21(1); American Convention on Human Rights, art. 52(1), which uses the term "highest moral authority"; African Charter Protocol, art. 11(1).

[114] European Convention on Human Rights, art. 21(2); American Convention on Human Rights, art. 52(1); African Charter Protocol, art. 11(1).

[115] European Convention on Human Rights, art. 32; American Convention on Human Rights, art. 62(1); African Charter Protocol, art. 3(1).

application of "any other relevant Human Rights instrument ratified by the States concerned".[116]

28. The instruments differ to a great extent on the issue of acceptance of the courts' jurisdiction. While the jurisdiction of the European Court of Human Rights is compulsory, the American Convention on Human Rights contains an optional clause for the acceptance of the jurisdiction of the Inter-American Court of Human Rights.[117] Article 62 of the American Convention on Human Rights sets forth that a State "may, upon depositing its instrument of ratification or adherence to [the American Convention on Human Rights], or at any subsequent time, declare that it recognizes as binding, ipso facto, and not requiring special agreement, the jurisdiction of the Court"; the declaration may be made "unconditionally, on the condition of reciprocity, for a specified period, or for specific cases"; and the jurisdiction of the court comprises all cases concerning the interpretation and application of the convention, provided that the States parties to the case recognize or have recognized such jurisdiction, whether by special agreement or by declaration. Only the States parties to the African Charter Protocol are subject to the jurisdiction of the African Court on Human and Peoples' Rights.

29. The judgments of all three courts are final. However, while judgments of the Inter-American Court of Human Rights[118] and the African Court on Human and Peoples' Rights[119] are not subject to appeal, judgments of chambers of the European Court of Human Rights may be referred to the Grand Chamber for a final ruling.[120] States parties to the regional conventions undertake to abide by the judgments in any case to which they are parties.[121]

30. Regarding advisory jurisdiction, the European Convention on Human Rights vested the European Court of Human Rights with the power to give advisory opinions on "legal questions concerning the interpretation of the Convention and the Protocols thereto",[122] at the request of the Committee of Ministers of the Council of Europe. The American Convention on Human Rights indicates that the States members of OAS, as well as the organs listed in chapter X of the charter of OAS, "may consult the Court regarding the interpretation of [the American Convention of Human Rights] or of other treaties concerning the protection of human rights in the American States".[123] Further, at the request of an OAS member State, the Court "may provide that State with opinions regarding the compatibility of any of its domestic laws" with the convention itself and other treaties concerning the protection of human rights in the American States.[124] The African Court on Human

[116] African Charter Protocol, art. 3(1).
[117] American Convention on Human Rights, arts. 44, 45(1) and 62.
[118] Ibid., art. 67.
[119] African Charter Protocol, art. 28(2).
[120] European Convention on Human Rights, arts. 43(1) and 44(1).
[121] Ibid., art. 46(1); American Convention on Human Rights, art. 68(1); African Charter on Human and Peoples' Rights, art. 30. The execution of judgments of those regional courts is monitored by, respectively, the Committee of Ministers of the Council of Europe (European Convention on Human Rights, art. 46(2)-(5)); the General Assembly of OAS (American Convention on Human Rights, art. 65); and the Assembly of Heads of States and Government of the African Union, through the Council of Ministers and through the annual report of the African Court on Human and Peoples' Rights (African Charter Protocol, arts. 29(2) and 31.
[122] European Convention on Human Rights, art. 47.
[123] American Convention on Human Rights, art. 64(1).
[124] Ibid., art. 64(2).

and Peoples' Rights may provide an opinion on any legal matter relating to the African Charter on Human and Peoples' Rights or any other relevant human rights instruments, provided that the matter is not being examined by the African Commission on Human and Peoples' Rights, and "at the request of a Member State of the [African Union], the [African Union], any of its organs, or any African organization recognized by the [African Union]".[125]

31. The European Convention on Human Rights allows for inter-State and individual applications to be brought before the Court.[126] Conversely, the American Convention on Human Rights only allows for States and the Inter-American Commission on Human Rights to submit a case to the Court.[127] The African Charter Protocol entitles the following entities to submit a case to the African Court on Human and Peoples' Rights: the African Commission on Human and Peoples' Rights; "the State Party which had lodged a complaint to the Commission"; "the State Party against which the complaint has been lodged at the Commission"; "the State Party whose citizen is a victim of human rights violation"; and African intergovernmental organizations.[128] The African Charter Protocol further envisages that a State party may request the permission of the African Court on Human and Peoples' Rights to join when it "has an interest in a case".[129] Lastly, the African Court on Human and Peoples' Rights may entitle "relevant" non-governmental organizations with observer status before the African Commission on Human and Peoples' Rights and individuals "to institute cases directly before it",[130] as long as the State party has made a declaration accepting the competence of the African Court on Human and Peoples' Rights to receive such cases.[131] It is expressly stated that the African Court on Human and Peoples' Rights may not receive a petition under such a provision if it involves a State party that has not made the aforementioned declaration.[132]

D. Meetings of States parties

32. Some of the treaties under review assign monitoring functions to be performed during meetings of their respective States parties. These include "review meetings" under the Convention on the Safety of United Nations and Associated Personnel;[133] "meetings of the High Contracting Parties" under Additional Protocol I;[134] the "Assembly of States Parties to the Rome Statute" under the Rome Statute of the International Criminal Court;[135] and the "Conference of the Parties" under the United Nations Convention against Transnational Organized Crime.[136]

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[125] African Charter Protocol, art. 4(1).
[126] European Convention on Human Rights, arts. 33 and 34.
[127] American Convention on Human Rights, art. 61(1).
[128] African Charter Protocol, art. 5(1).
[129] Ibid., art. 5(2).
[130] Ibid., art. 5(3).
[131] Ibid., art. 34(6).
[132] Ibid.
[133] United Nations, *Treaty Series*, vol. 2051, No. 35457, p. 363.
[134] Additional Protocol I, art. 7.
[135] United Nations, *Treaty Series*, vol. 2187, No. 38544, p. 3, art. 112.
[136] Ibid., vol. 2225, No. 39574, p. 209.

33. In terms of composition, the meetings referred to above consist of all the States parties to the relevant convention. The Rome Statute specifies that each State party has one representative, who may be accompanied by alternates and advisers.[137] In addition, States which have signed but not ratified the Rome Statute or the Final Act of the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court[138] may be observers in the Assembly.[139]

34. At the request of one or more States parties, and if approved by a majority of States parties, review meetings under the Convention on the Safety of United Nations and Associated Personnel and meetings of the High Contracting Parties under Additional Protocol I are convened by the Secretary-General of the United Nations or by the depository of the Protocol, respectively.[140] Conversely, the Assembly of States Parties to the Rome Statute and the Conference of the Parties to the United Nations Convention against Transnational Organized Crime meet on a regular basis, typically annually or biennially.[141]

35. The mandates of the meetings are generally set out in broad terms. For example, the meeting of States parties to the Convention on the Safety of United Nations and Associated Personnel convenes "to review the implementation of the Convention, and any problems encountered with regard to its application",[142] while the meetings of High Contracting Parties to Additional Protocol I "consider general problems concerning the application of the [Geneva] Conventions and of the Protocol".[143]

36. In similarly broad language, the United Nations Convention against Transnational Organized Crime convenes its Conference of the Parties "to combat transnational organized crime and to promote and review the implementation of [the] Convention".[144] However, the Convention also instructs the Conference to agree upon the mechanisms for achieving those objectives, including facilitating activities and exchange of information, engaging in international cooperation and periodic review of the implementation of the Convention, and making recommendations to improve the Convention and its implementation.[145] The Convention instructs States parties to supply the Conference of the Parties, as well

[137] Rome Statute, art. 112(1).

[138] *Official Records of the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, Rome, 15 June-17 July 1998*, vol. I, *Final documents* (A/CONF.183/13).

[139] Rome Statute, art. 112(1).

[140] Convention on the Safety of United Nations and Associated Personnel, art. 23 and Additional Protocol I, art. 7.

[141] Article 112(6) of the Rome Statute provides that the Assembly of States Parties shall meet annually; article 32(2) of the United Nations Convention against Transnational Organized Crime instructs the Secretary-General of the United Nations to convene the Conference of the Parties not later than one year following the entry into force of the Convention. Since its entry into force on 29 September 2003, the Conference of the Parties has met three times on an annual basis; following its meeting in 2006 it has met on a biennial basis.

[142] Convention on the Safety of United Nations and Associated Personnel, art. 23.

[143] Additional Protocol I, art. 7.

[144] United Nations Convention against Transnational Organized Crime, art. 32(1).

[145] Ibid., art. 32(3).

as possible supplemental review mechanisms, with the requisite information to fulfil those tasks.[146]

37. The mandate of the Assembly of States Parties to the Rome Statute is even more detailed, providing that the Assembly shall, inter alia, provide management oversight to the Presidency, the Prosecutor and the Registrar; consider and decide the budget for the International Criminal Court; decide on the number of judges; and consider any question relating to non-cooperation with the Court.[147] If necessary, the Assembly of States Parties to the Rome Statute may establish subsidiary bodies, such as an independent oversight mechanism for inspection, evaluation and investigation of the Court.[148]

III. Typology of monitoring procedures

38. The present section aims at describing the procedures that may be performed by the institutions presented in section II above. In light of the terminology employed by the relevant treaties, the procedures that have been examined for the purposes of the present memorandum may be categorized as follows: (a) reports; (b) individual complaints, applications or communications; (c) inter-State communications; (d) inquiries and visits; (e) urgent action; and (f) information provided at meetings of States parties.[149]

A. Reports

1. Frequency of required reports

39. Reporting procedures are included as a monitoring mechanism for the implementation of the Convention on Racial Discrimination (article 9); the International Covenant on Civil and Political Rights (article 40); the American Convention on Human Rights (article 42); the Apartheid Convention (article VII);[150] the Convention on Discrimination against Women (article 18); the African Charter on Human and Peoples' Rights (article 62); the Torture Convention (article 19); the Inter-American Convention to Prevent and Punish Torture[151] (article 17); the Convention on the Rights of the Child (article 44); and the Convention on Enforced Disappearance (article 29).

40. Except for the Inter-American Convention to Prevent and Punish Torture[152] and the Apartheid Convention,[153] which are silent as to the frequency of reports, all treaties under review impose an obligation on States parties to submit reports on an established time frame. The frequency varies. The Convention on Racial Discrimination requires that States parties submit a report within one year after the

[146] Ibid., art. 32(4) and (5)
[147] Rome Statute, art. 112(2). On the issue of non-cooperation, see also art. 87(5)(b) and (7).
[148] Ibid., art. 112(4).
[149] The present memorandum discusses those procedures separately; in practice, they may at times be applied simultaneously or sequentially.
[150] See above, note 60.
[151] Organization of American States, *Treaty Series*, No. 67.
[152] Inter-American Convention to Prevent and Punish Torture, art. 17.
[153] Apartheid Convention, art. VII(1).

entry into force of the Convention and thereafter every two years and whenever the Committee on the Elimination of Racial Discrimination so requests.[154] The International Covenant on Civil and Political Rights requires that States parties submit reports within one year of the entry into force of the Covenant and thereafter whenever the Human Rights Committee so requests.[155] In contrast, the American Convention on Human Rights stipulates that States parties transmit to the Inter-American Commission on Human Rights a copy of the reports and studies that they submit annually to the Inter-American Economic and Social Council and to the Inter-American Council for Education, Science and Culture,[156] and that they provide the Inter-American Commission on Human Rights with information whenever requested.[157] The Convention on Discrimination against Women stipulates that States parties are required to submit the reports within one year after the entry into force of the Convention for the State concerned, and thereafter at least every four years and whenever the Committee on the Elimination of Discrimination Against Women so requests.[158] The African Charter on Human and Peoples' Rights requires States parties to submit reports "every two years" from the date of entry into force of the Charter.[159] The States parties to the Torture Convention undertook to submit reports within one year after the entry into force of the Convention, and thereafter every four years on any new measures taken and such other reports as the Committee against Torture may request.[160] The States parties to the Convention on the Rights of the Child are to submit their reports within two years of the entry into force of the Convention for the State party concerned, and thereafter every five years.[161] In turn, the Convention on Enforced Disappearance requires that States parties submit their reports within two years after the entry into force of the Convention for the State party concerned.[162]

2. Subject matter of the reports and recipients thereof

41. In relation to the subject matter of the reports, the Convention on Racial Discrimination provides that the reports submitted to the Secretary-General of the United Nations for consideration by the Committee on the Elimination of Racial Discrimination are to focus "on the legislative, judicial, administrative or other measures which [the States] have adopted and which give effect to the provisions" of the Convention.[163] The International Covenant on Civil and Political Rights contains a similar provision, affirming that all reports are to be submitted to the Secretary-General of the United Nations, who transmits them to the Human Rights Committee for consideration. According to the Covenant, the reports should focus "on the measures [the States parties to the Covenant] have adopted which give effect to the rights recognized herein and on the progress made in the enjoyment of those rights"[164] and "shall indicate the factors and difficulties, if any, affecting the

[154] Convention on Racial Discrimination, art. 9(1).
[155] International Covenant on Civil and Political Rights, art. 40(1).
[156] American Convention on Human Rights, art. 42.
[157] Ibid., art. 43.
[158] Convention on Discrimination against Women, art. 18(1).
[159] African Charter on Human and Peoples' Rights, art. 62.
[160] Torture Convention, art. 19(1).
[161] Convention on the Rights of the Child, art. 44(1).
[162] Convention on Enforced Disappearance, art. 29(1).
[163] Convention on Racial Discrimination, art. 9(1).
[164] International Covenant on Civil and Political Rights, art. 40(1).

implementation of the present Covenant".[165] It should be highlighted that the Second Optional Protocol to the Covenant requires that the reports to the Human Rights Committee include "information on the measures that [the States parties to the Second Optional Protocol] have adopted to give effect" to the Protocol.[166]

42. The American Convention on Human Rights envisages an obligation of States parties to transmit to the Inter-American Commission on Human Rights a copy of the reports and studies that they submit annually to the Inter-American Economic and Social Council and to the Inter-American Council for Education, Science and Culture "so that the [Inter-American Commission on Human Rights] may watch over the promotion of the rights implicit in the economic, social, educational, scientific, and cultural standards set forth in the Charter of the Organization of American States".[167] In addition, States parties are also bound to provide the Inter-American Commission on Human Rights with information "as to the manner in which their domestic law ensures the effective application of any provisions of [the American Convention on Human Rights]" upon request by the Commission.[168]

43. As a result of the Apartheid Convention's distinct monitoring system,[169] the Convention envisages copies of the reports submitted by the States parties being "transmitted through the Secretary-General of the United Nations to the Special Committee on Apartheid".[170] The reports would then be considered by a group consisting of three members of the Commission on Human Rights, appointed by the Chairman of the Commission on Human Rights.[171] The group would meet either before the opening or after the closing of the session of the Commission on Human Rights to consider the reports.[172] The reports would be "on the legislative, judicial, administrative or other measures that [the States parties to the Convention] have adopted and that give effect to the provisions" of the Apartheid Convention.[173]

44. The Convention on Discrimination against Women adopts similar language to that found in the Apartheid Convention regarding the substance of the reports. States parties to the Convention on Discrimination against Women undertake to submit "a report on the legislative, judicial, administrative or other measures which they have adopted to give effect to the provisions of the [Convention] and on the progress made in this respect"; additionally, States parties may indicate "factors and difficulties affecting the degree of fulfilment of obligations" under the Convention.[174] The reports are submitted to the Secretary-General for consideration by the Committee on the Elimination of Discrimination against Women.[175] The

[165] Ibid., art. 40(2).
[166] Second Optional Protocol to the International Covenant on Civil and Political Rights, art. 3.
[167] American Convention on Human Rights, art. 42.
[168] American Convention on Human Rights, art. 43.
[169] See above, note 60.
[170] Apartheid Convention, art. VII(2). The Special Committee against Apartheid was established by General Assembly resolution 1761 (XVII) of 6 November 1962, and terminated owing to the conclusion of its mandate by General Assembly resolution 48/258 of 23 June 1994.
[171] Apartheid Convention, art. IX(1).
[172] Ibid., art. IX(3).
[173] Ibid., art. VII(1).
[174] Convention on Discrimination against Women, art. 18.
[175] Ibid., art. 18(1).

Committee meets annually in order to consider the reports submitted by the States parties.[176]

45. The African Charter on Human and Peoples' Rights stipulates that the reports shall be "on the legislative or other measures taken with a view to giving effect to the rights and freedoms recognized and guaranteed" by the Charter.[177] The provision is silent in relation to the recipients of the reports, although, in practice, they are submitted to the African Commission on Human and Peoples' Rights.

46. Under the Torture Convention, States parties are required to submit reports "on the measures they have taken to give effect to their undertakings under this Convention".[178] The Inter-American Convention to Prevent and Punish Torture stipulates that the States parties undertake to "inform the Inter-American Commission on Human Rights of any legislative, judicial, administrative, or other measures they adopt in application of this Convention".[179] It further establishes that the Inter-American Commission on Human Rights "will endeavour in its annual report to analyse the existing situation in the member states of the Organization of American States in regard to the prevention and elimination of torture".[180] Similarly, the Convention on the Rights of the Child provides that the States parties "undertake to submit reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made on the enjoyment of those rights"[181] and "shall indicate factors and difficulties, if any, affecting the degree of fulfilment of the obligations" under the Convention.[182] Reports should also contain sufficient information to provide the Committee on the Rights of the Child with a comprehensive understanding of the implementation of the Convention in the State concerned.[183] In addition, the Committee on the Rights of the Child may request further information from the States parties relevant to the implementation of the Convention on the Rights of the Child.[184] In turn, the Convention on Enforced Disappearance requires States parties to submit reports "on the measures taken to give effect to [their] obligations" under the Convention.[185] The Committee on Enforced Disappearances can also request States parties to provide additional information on the implementation of the Convention on Enforced Disappearance.[186] As regards the addressees of the reports, the Torture Convention and the Convention on Enforced Disappearance determine that the reports are submitted to the Committee against Torture and to the Committee on Enforced Disappearances, respectively, through the Secretary-General of the United Nations,[187] who transmits or makes them available to all States parties to the respective conventions.[188] The reports of the States parties to

[176] Ibid., art. 20(1).
[177] African Charter on Human and Peoples' Rights, art. 62.
[178] Torture Convention, art. 19(1).
[179] Inter-American Convention to Prevent and Punish Torture, art. 17.
[180] Ibid.
[181] Convention on the Rights of the Child, art. 44(1).
[182] Ibid., art. 44(2).
[183] Ibid. The Convention on the Rights of the Child also determines that a State party which has submitted a comprehensive initial report to the Committee on the Rights of the Child need not, in its subsequent reports, repeat basic information previously provided (art. 44(3)).
[184] Convention on the Rights of the Child, art. 44(4).
[185] Convention on Enforced Disappearance, art. 29(1).
[186] Ibid., art. 29(4).
[187] Torture Convention, art. 19(1); Convention on Enforced Disappearance, art. 29(1).
[188] Torture Convention, art. 19(2); Convention on Enforced Disappearance, art. 29(2).

the Convention on the Rights of the Child are submitted to the Committee on the Rights of the Child through the Secretary-General of the United Nations,[189] although the States parties are also required to make their reports widely available to the public in their own countries.[190]

3. Outcome of the reporting procedure

47. Regarding the outcome of the reporting procedure in the International Covenant on Civil and Political Rights, the Human Rights Committee, after studying the reports, transmits general comments, as it may consider appropriate, to the States parties, as well as to the Economic and Social Council along with the copies of the reports.[191] As pointed out above, the Inter-American Commission on Human Rights may "watch over the promotion of the rights implicit in the economic, social, educational, scientific, and cultural standards set forth in the Charter of the Organization of American States" upon receipt of the reports submitted by the States parties.[192] The Committee against Torture makes general comments on reports of States parties, as it may consider appropriate, and forwards those to the State party concerned, which in turn may respond to the Committee.[193] The Committee on Enforced Disappearances considers the reports and issues comments, observations or recommendations, as it may deem appropriate, that are communicated to the State party concerned, which may respond to them on its own initiative or at the request of the Committee.[194] The Convention on Racial Discrimination and the Convention on Discrimination against Women contain substantially similar provisions, stipulating that their relevant committees may "make suggestions and general recommendations based on the examination of [the] reports and information received from the States Parties" in their annual report to the General Assembly, together with comments transmitted by the States parties, if any.[195] Under the Convention on the Rights of the Child, the Committee on the Rights of the Child transmits, as it may consider appropriate, to the specialized agencies, the United Nations Children's Fund and other competent bodies, "any reports from States Parties that contain a request, or indicate a need, for technical advice or assistance, along with the Committee's observations and suggestions, if any, on these requests or indications".[196] The Committee on the Rights of the Child can also "make suggestions and recommendations" based on information received from the States parties by means of their report, which must be transmitted to any State party concerned and reported to the General Assembly, together with comments, if any, from the States parties.[197] The African Charter on Human and Peoples' Rights does not require the submission of reports.

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[189] Convention on the Rights of the Child, art. 44(1).
[190] Ibid., art. 44(6).
[191] International Covenant on Civil and Political Rights, art. 40(4).
[192] American Convention on Human Rights, art. 42.
[193] Torture Convention, art. 19(3).
[194] Convention on Enforced Disappearance, art. 29(3).
[195] Convention on Racial Discrimination, art. 9(2); Convention on Discrimination against Women, art. 21(1).
[196] Convention on the Rights of the Child, art. 45(b).
[197] Ibid., art. 45(d).

B. Individual complaints, applications or communications

48. Individual complaints or applications procedures are contemplated in many of the treaties under review: the European Convention on Human Rights (article 34); the Convention on Racial Discrimination (article 14); the First Optional Protocol to the International Covenant on Civil and Political Rights; the American Convention on Human Rights (article 44); the African Charter on Human and Peoples' Rights (article 56); the Torture Convention (article 22); the Second Optional Protocol to the International Covenant on Civil and Political Rights (article 5); the Inter-American Convention on the Forced Disappearance of Persons[198] (article XIII); the Optional Protocol to the Convention on Discrimination against Women; the Convention on Enforced Disappearance (article 31); and the Optional Protocol to the Convention on the Rights of the Child on a communications procedure (article 5).

1. Access

49. The European Convention on Human Rights provides that the European Court of Human Rights may receive applications from "any person, non-governmental organisation or group of individuals claiming to be the victim of a violation by one of the High Contracting Parties of the rights set forth in the [European Convention on Human Rights] or the Protocols thereto".[199]

50. The American Convention on Human Rights contains an equivalent provision, stating that "any person or group of persons, or any non-governmental entity" may lodge petitions with the Inter-American Commission on Human Rights "containing denunciations or complaints of violation" of the Convention by a State party.[200] The Convention also regulates the submission of cases to the Inter-American Court of Human Rights. Under article 61, the States parties to the Convention and the Inter-American Commission on Human Rights have the right to submit a case to the Inter-American Court of Human Rights, if the procedure before the Inter-American Commission on Human Rights has been completed and subject to a declaration of the State party recognizing the Court's jurisdiction. The same procedures apply to the Inter-American Convention on the Forced Disappearance of Persons, which dictates that "the processing of petitions or communications presented to the Inter-American Commission on Human Rights alleging the forced disappearance of persons shall be subject to the procedures established in the American Convention on Human Rights".[201]

51. The Convention on Racial Discrimination, the Torture Convention and the Convention on Enforced Disappearance contain similar provisions. They afford the States parties to the respective conventions the option to declare that they recognize the competence of their respective committees to "receive and consider communications from", "or on behalf of",[202] individuals "or groups of individuals",[203]

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[198] Organization of American States, *Treaty Series*, No. 68.

[199] European Convention on Human Rights, art. 34.

[200] American Convention on Human Rights, art. 44. The non-governmental entity must be legally recognized in one or more States members of OAS.

[201] Inter-American Convention on the Forced Disappearance of Persons, art. XIII. See also art. XIV.

[202] Only the Torture Convention and the Convention on Enforced Disappearance foresee "or on behalf of" petitions.

[203] Only the Convention on Racial Discrimination foresees the possibility of "or group of individuals".

subject to their jurisdictions claiming "to be victims of a violation" "of the rights"[204] or "of the provisions" of the respective convention,[205] by a State party that has declared that it recognizes the competence of the relevant committee. The Convention on Racial Discrimination further stipulates that a State party that has made such declaration "may establish or indicate a body within its national legal order which shall be competent to receive and consider petitions from individuals and groups of individuals within its jurisdiction who claim to be victims of a violation of any of the rights" set forth in the Convention on Racial Discrimination and who have exhausted other available local remedies.[206] Under the Convention on Racial Discrimination and the Torture Convention, the declarations may be withdrawn by a State party at any time by notification to the Secretary-General of the United Nations, but any communications procedures pending before the respective committees shall not be affected by the withdrawal.[207]

52. The International Covenant on Civil and Political Rights, the Convention on Discrimination against Women and the Convention on the Rights of the Child adopt a different approach in relation to the acceptance of the committee's jurisdiction. Only the States parties to the First Optional Protocol to the International Covenant on Civil and Political Rights, to the Optional Protocol to the Convention on Discrimination against Women and to the Optional Protocol to the Convention on the Rights of the Child on a communications procedure recognize the competence of the Human Rights Committee, the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child, respectively, to receive and consider communications.[208] Thus, a communication is considered only if it concerns a State party to the respective optional protocols.[209]

53. The First Optional Protocol to the International Covenant on Civil and Political Rights provides that the communications must be from "individuals subject to its jurisdiction who claim to be victims of a violation" by the State party concerned of any of the rights set forth in the International Covenant on Civil and Political Rights.[210]

54. The Optional Protocol to the Convention on Discrimination against Women, on the other hand, provides that the communications "may be submitted by or on behalf of individuals or groups of individuals, under the jurisdiction of a State Party,

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[204] Only the Convention on Racial Discrimination envisages "of the rights".

[205] Only the Torture Convention and the Convention on Enforced Disappearance envisage "of the provisions".

[206] Convention on Racial Discrimination, art. 14(2).

[207] Ibid., art. 14(3); Torture Convention, art. 22(8).

[208] First Optional Protocol to the International Covenant on Civil and Political Rights, art. 1; Optional Protocol to the Convention on Discrimination against Women, art. 1; Optional Protocol to the Convention on the Rights of the Child on a communications procedure, art. 5. The Second Optional Protocol to the International Covenant on Civil and Political Rights stipulates in article 5 that, with respect to the States parties to the First Optional Protocol, "the competence of the Human Rights Committee to receive and consider communications from individuals subject to its jurisdiction shall extend to the provisions of the [Second Optional Protocol], unless the State Party concerned has made a statement to the contrary at the moment of ratification or accession."

[209] Optional Protocol to the International Covenant on Civil and Political Rights, art. 1; Optional Protocol to the Convention on Discrimination against Women, art. 3; Optional Protocol to the Convention on the Rights of the Child on a communications procedure, art. 1(3).

[210] First Optional Protocol to the International Covenant on Civil and Political Rights, art. 1.

claiming to be victims of a violation of any of the rights set forth in the Convention by that State Party".[211]

55. The Optional Protocol to the Convention on the Rights of the Child on a communications procedure envisages that communications "may be submitted by or on behalf of an individual or group of individuals, within the jurisdiction of a State party, claiming to be victims of a violation by that State party of any of the rights set forth in any of the following instruments to which that State is a party": the Convention on the Rights of the Child; the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography; and the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.[212]

56. The African Charter on Human and Peoples' Rights contains a general provision stating that the African Commission on Human and Peoples' Rights may consider communications "other than those of States parties" to the Charter.[213] According to article 47 of the Charter regarding inter-State communications, which applies also to such individual communications, the claim must pertain to violation of "the provisions of the Charter" and shall relate "to human and peoples' rights".[214] The African Charter Protocol allows access to the African Court on Human and Peoples' Rights on "cases and disputes submitted to it concerning the interpretation and application of" the African Charter on Human and Peoples' Rights, the African Charter Protocol and any other relevant human rights instrument ratified by the States concerned.[215]

2. Admissibility criteria

57. All the treaties under review prescribe as one of the admissibility criteria the requirement of exhaustion of domestic remedies.[216] As a general rule, local remedies do not have to be exhausted where there are no reasonably available local remedies to provide effective redress or the possibility of such redress, or where there is undue delay in the remedial process. For example, the Convention on Racial Discrimination, the First Optional Protocol to the International Covenant on Civil and Political Rights, the African Charter on Human and Peoples' Rights, the Torture Convention, the Optional Protocol to the Convention on Discrimination against Women, the Convention on Enforced Disappearance and the Optional Protocol to the Convention on the Rights of the Child on a communications procedure envisage an exception when the application of the domestic remedies is unreasonably or unduly prolonged or when it is unlikely to bring effective relief. The American Convention on Human Rights recognizes exceptions to the requirement when the legislation of the State

[211] Optional Protocol to the Convention on Discrimination against Women, art. 2.

[212] Optional Protocol to the Convention on the Rights of the Child on a communications procedure, art. 5(1).

[213] African Charter on Human and Peoples' Rights, art. 55.

[214] Ibid., arts. 47 and 56.

[215] African Charter Protocol, art. 3(1).

[216] European Convention on Human Rights, art. 34(1); Convention on Racial Discrimination, art. 14(7)(a); Torture Convention, art. 22(5)(b); First Optional Protocol to the International Covenant on Civil and Political Rights, arts. 2 and 5(2)(b); American Convention on Human Rights, art. 46(1)(a); African Charter on Human and Peoples' Rights, art. 56(5); Optional Protocol to the Convention on Discrimination against Women, art. 4(1); Convention on Enforced Disappearance, art. 31(2)(d); Optional Protocol to the Convention on the Rights of the Child on a communications procedure, art. 7(e).

concerned does not afford due process of law for the protection of the right that has allegedly been violated; when the party alleging violation has been denied access to the remedies under domestic law or has been prevented from exhausting them; and when there has been unwarranted delay in rendering a final judgment under the domestic remedies.[217]

58. The additional admissibility criteria before the European Court of Human Rights include that the application cannot be anonymous, that the matter cannot be substantially the same as a matter that has already been examined by the Court or "has already been submitted to another procedure of international investigation or settlement and contains no relevant new information", that the application must be compatible with the provisions of the European Convention on Human Rights and its protocols, and that it cannot be manifestly ill founded, or an abuse of the right of individual application. In addition, an application may be rejected if the Court considers that the applicant "has not suffered a significant disadvantage", unless respect for human rights as defined in the convention and its protocols "requires an examination of the application on the merits and provided that no case may be rejected on this ground which has not been duly considered by a domestic tribunal".[218]

59. The Convention on Racial Discrimination, the Torture Convention, the Convention on Enforced Disappearance, the First Optional Protocol to the International Covenant on Civil and Political Rights, the Optional Protocol to the Convention on Discrimination against Women, and the Optional Protocol to the Convention on the Rights of the Child on a communications procedure generally present very similar provisions in terms of additional admissibility criteria.

60. The Convention on Racial Discrimination establishes the following additional admissibility criteria: the petitioner has the right to communicate the matter to the Committee on the Elimination of Racial Discrimination within six months in the event of failure to obtain satisfaction from the body established or indicated by the State party;[219] and the communications cannot be anonymous, but the identity of the individual or groups of individuals concerned can only be revealed to the relevant State party with the petitioner's express consent.[220]

61. The American Convention on Human Rights requires that in order for the Inter American Court of Human Rights to hear a case, the procedures before the Inter American Commission on Human Rights must have been completed.[221] In turn, the admissibility criteria envisaged by the American Convention on Human Rights for a case to be admitted before the Inter-American Commission on Human Rights are similar to those of the European Convention on Human Rights, described above.

62. The Torture Convention, the Convention on Enforced Disappearance, the Optional Protocol to the Convention on Discrimination against Women and the Optional Protocol to the Convention on the Rights of the Child on a communications procedure contain admissibility criteria similar to both the European Convention on Human Rights and to the Convention on Racial Discrimination, in addition to the exhaustion of domestic remedies. They provide that anonymous communications, as

[217] American Convention on Human Rights, art. 46(2).
[218] European Convention on Human Rights, art. 35.
[219] Convention on Racial Discrimination, art. 14(5).
[220] Ibid., art. 14(6).
[221] American Convention on Human Rights, art. 61(2).

well as communications considered to be an abuse of the right of submissions of communications or to be incompatible with the provisions of the treaty (and/or the protocol),[222] will be considered inadmissible, and that the communication cannot be the same as a matter that has already been, or is being, examined under another procedure of international investigation or settlement.[223] The Optional Protocol to the Convention on Discrimination against Women and the Optional Protocol to the Convention on the Rights of the Child on a communications procedure further lay down that communications are not admissible if they manifestly ill-founded or not sufficiently substantiated, or if the facts that are subject of the communication occurred prior to the entry into force of the protocol for the State party concerned.[224] Finally, the last two criteria envisaged in the Optional Protocol to the Convention on the Rights of the Child on a communications procedure determine that the communications are not admissible if they are not in writing and if they are not submitted within one year after the exhaustion of domestic remedies, except in cases where the author can demonstrate that it had not been possible to submit the communication within that time limit.[225]

63. In that respect, the First Optional Protocol to the International Covenant on Civil and Political Rights establishes that anonymous communications, or communications that are deemed an abuse of the right of submission, or that are incompatible with the Covenant, are not admissible;[226] likewise, if the matter is being examined under another procedure of international investigation or settlement, the communication cannot be considered by the Human Rights Committee.[227]

64. The American Convention on Human Rights contains analogous provisions regarding additional admissibility criteria. It sets forth the following requirements:[228] the petition must be lodged within six months from the date on which the party alleging violation was notified of the final judgment;[229] the subject of the petition is not pending in another international proceeding for settlement; and the petition must contain the name, nationality, profession, domicile and signature of the person or persons or of the legal representative of the entity lodging the petition. In addition, the petition will be considered inadmissible if any of such requirements are not met; if the petition does not state facts that tend to establish a violation of the rights guaranteed under the convention; if the statements of the petitioner indicate that the petition is manifestly groundless or obviously out of order; or if the petition is substantially the same as one previously considered by the Inter-American Commission on Human Rights or by another international organization.[230]

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[222] Optional Protocol to the Convention on the Rights of the Child on a communications procedure, art. 7(c).

[223] Torture Convention, art. 22(2) and (5); Optional Protocol to the Convention on Discrimination against Women, art. 4(2); Convention on Enforced Disappearance, art. 31(2); Optional Protocol to the Convention on the Rights of the Child on a communications procedure, art. 7.

[224] Optional Protocol to the Convention on Discrimination against Women, art. 4(2); Optional Protocol to the Convention on the Rights of the Child on a communications procedure, art. 7.

[225] Optional Protocol to the Convention on the Rights of the Child on a communications procedure, art. 7.

[226] First Optional Protocol to the International Covenant on Civil and Political Rights, art. 3.

[227] Ibid., art. 5(2)(a).

[228] American Convention on Human Rights, art. 46(1).

[229] The exceptions applicable to the exhaustion-of-domestic-remedies criterion, as cited in para. 57 above, also apply for this criterion. See American Convention on Human Rights, art. 46(2).

[230] American Convention on Human Rights, art. 47.

65. The African Charter Protocol states that the African Court on Human and Peoples' Rights "shall rule on the admissibility of cases taking into account the provisions of article 56 of [the African Charter on Human and Peoples' Rights]".[231] Article 56 of the African Charter on Human and Peoples' Rights, in turn, lists certain admissibility criteria, some of which are not common to the other treaties mentioned above: indication of the author;[232] compatibility with the Charter of the Organization of African Unity or with the African Charter on Human and Peoples' Rights;[233] not being written in "disparaging or insulting language directed against the State concerned and its institutions or to the Organization of African Unity";[234] not being based "exclusively on news disseminated through the mass media";[235] being submitted within a "reasonable period from the time the local remedies are exhausted or from the date the [African Commission on Human and Peoples' Rights] is seized of the matter";[236] and not dealing with cases that have been settled by the States involved in accordance with "the principles of the Charter of the United Nations, or the Charter of the Organization of African Unity or the provisions of the [African Charter on Human and Peoples' Rights]".[237] Such admissibility criteria are also applicable for cases to be received and examined by the African Court on Human and Peoples' Rights, according to article 6 of the African Charter Protocol.

3. Outcome of the procedure

66. In relation to the outcome of the procedures, the Committee on the Elimination of Racial Discrimination forwards its "suggestions and recommendations", if any, to the State party concerned and to the petitioner,[238] while the Human Rights Committee, the Committee against Torture, the Committee on the Elimination of Discrimination against Women, the Committee on Enforced Disappearance and the Committee on the Rights of the Child forward their "views" to the State party concerned and to the individual/author of the communication.[239] The Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child may also transmit "recommendations", if any, to the parties concerned together with their "views".[240] The State party is required to submit to the Committee on the Elimination of Discrimination against Women and to the Committee on the Rights of the Child, as the case may be, a written response within six months, including information on any action taken in light of the views and

[231] African Charter Protocol, art. 6(2).
[232] African Charter on Human and Peoples' Rights, art. 56(1).
[233] Ibid., art. 56(2).
[234] Ibid., art. 56(3).
[235] Ibid., art. 56(4).
[236] Ibid., art. 56(6).
[237] Ibid., art. 56(7).
[238] Convention on Racial Discrimination, art. 14(7)(b).
[239] First Optional Protocol to the International Covenant on Civil and Political Rights, article 5 (4), using "individual; Torture Convention, article 22 (7), using "individual"; Convention on Enforced Disappearance, article 31 (5), using "author of the communication"; Optional Protocol to the Convention on Discrimination against Women, article 7 (3), using "parties concerned"; Optional Protocol to the Convention on the Rights of the Child on a communications procedure, article 10 (5), using "parties concerned".
[240] Optional Protocol to the Convention on Discrimination against Women, art. 7(3); Optional Protocol to the Convention on the Rights of the Child on a communications procedure, art. 10(5).

recommendations of the relevant committee, and the State party may be invited to submit further information about any measures it has taken.[241]

67. The Inter-American Commission on Human Rights is required to draw up a report containing a statement of the facts and either the solution reached,[242] in case the parties reach a friendly settlement, or its conclusions, with proposals and recommendations if applicable, in case a friendly settlement is not reached. In case a friendly settlement is reached, the report is to be transmitted to the petitioner and to the States parties to the American Convention on Human Rights, and then communicated to the Secretary General of OAS for publication.[243] Conversely, if a settlement is not reached, the report will be transmitted to the States concerned, "which shall not be at liberty to publish it".[244] If the matter is not settled, or submitted by the Inter-American Commission on Human Rights or by the State concerned to the Inter-American Court of Human Rights within three months after transmittal of the report, the Inter-American Commission on Human Rights may set forth its opinion and conclusions concerning the question submitted for its consideration, including prescription of measures to be taken by the State concerned to remedy the situation.[245]

68. The African Commission on Human and Peoples' Rights may make "recommendations as it deems useful" in its report to the States concerned and to the Assembly of Heads of State and Government.[246] The matter may also be brought to the attention of the Assembly of Heads of State and Government in specific cases.[247]

69. As indicated above,[248] the judgments pronounced by the European Court of Human Rights, the Inter-American Court of Human Rights and the African Court on Human and Peoples' Rights are final and binding upon the parties (except insofar as appeals procedures before the Grand Chamber of the European Court of Human Rights are concerned).

C. Inter-State claims and communications procedures

70. The following treaties establish inter-State claims and communications procedures: the European Convention on Human Rights (article 33); the Convention on Racial Discrimination (article 11); the International Covenant on Civil and Political Rights (article 41); the American Convention on Human Rights (article 45); the African Charter on Human and Peoples' Rights (article 47); the Torture Convention

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[241] Optional Protocol to the Convention on Discrimination against Women, art. 7(4) (article 7(5) further establishes that the additional information may be included, as deemed appropriate by the Committee on the Elimination of Discrimination against Women, in the State party's periodical reports under article 18 of the Convention on Discrimination against Women); Optional Protocol to the Convention on the Rights of the Child on a communications procedure, art. 11 (the provision also establishes that the additional information may be included, as deemed appropriate by the Committee on the Rights of the Child, in the State party's periodical reports as envisaged in the Convention on the Rights of the Child and its protocols).

[242] American Convention on Human Rights, arts. 49 and 50.

[243] Ibid., art. 49.

[244] Ibid., art. 50.

[245] Ibid., art. 51.

[246] African Charter on Human and Peoples' Rights, arts. 52 and 53.

[247] Ibid., art. 58.

[248] See above, sect. II.C.2.

(article 21); the Second Optional Protocol to the International Covenant on Civil and Political Rights (article 4); the Inter-American Convention on the Forced Disappearance of Persons (article XIII); the Convention on Enforced Disappearance (article 32); and the Optional Protocol to the Convention on the Rights of the Child on a communications procedure (article 12).

71. The European Convention on Human Rights stipulates that "[a]ny High Contracting Party may refer to the Court any alleged breach of the provisions of the Convention and the Protocols thereto by another High Contracting Party".[249] The procedure is similar to that for individual complaints considered above, except that the only admissibility criterion applicable to inter-State claims relates to the exhaustion of local remedies.[250] In addition, a High Contracting Party may submit written comments and take part in hearings in individual complaint procedures where one of it nationals is an applicant or when it is invited by the President of the Court to do so.[251]

72. As indicated above, both the Convention on Racial Discrimination and the International Covenant on Civil and Political Rights envisage the creation of an ad hoc conciliation commission to resolve matters between States.[252] Furthermore, the Convention on Racial Discrimination establishes that when a "State Party considers that another State Party is not giving effect" to the provisions of the Convention on Racial Discrimination, "it may bring the matter to the attention" of the Committee on the Elimination of Racial Discrimination.[253]

73. The International Covenant on Civil and Political Rights, the Torture Convention and the Optional Protocol to the Convention on the Rights of the Child on a communications procedure contain substantially similar provisions in relation to inter-State communications. The International Covenant on Civil and Political Rights and the Torture Convention provide that the respective competence of the Human Rights Committee and of the Committee against Torture "to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations" under the respective treaty is subject to a declaration of the State party recognizing the relevant committee's competence to that effect.[254] The Optional Protocol to the Convention on the Rights of Child indicates that a State party to the protocol "may, at any time, declare that it recognizes the competence of the [Committee on the Rights of the Child] to receive and consider communications in which a State party claims that another State party is not fulfilling its obligations" under any of the following: the Convention on the Rights of the Child; the Optional Protocol to the Convention on the Rights of the

[249] European Convention on Human Rights, art. 33.

[250] Ibid., art. 35 (1).

[251] Ibid., art. 36(1) and (2).

[252] Convention on Racial Discrimination, art. 12; International Covenant on Civil and Political Rights, art. 42.

[253] Convention on Racial Discrimination, art. 11(1).

[254] International Covenant on Civil and Political Rights, art. 41 (1); Torture Convention, art. 21(1). Article 4 of the Second Optional Protocol to the International Covenant on Civil and Political Rights provides that, with respect to the States parties to the International Covenant on Civil and Political Rights that have made a declaration under its article 41, "the competence of the Human Rights Committee to receive and consider communications when a State Party claims that another State Party is not fulfilling its obligations shall extend to the provisions of the present Protocol, unless the State Party concerned has made a statement to the contrary at the moment of ratification or accession".

Child on the sale of children, child prostitution and child pornography; and the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.[255] Moreover, those treaties stipulate that communications may be received and considered only if submitted by a State party that has made a declaration recognizing the relevant committee's competence, and that no communication can be received if it concerns a State party that has not made such a declaration.[256] The International Covenant on Civil and Political Rights, the Torture Convention and the Optional Protocol to the Convention on the Rights of the Child on a communications procedure allow States parties to withdraw such a declaration at any time, without prejudice to the "consideration of any matter" that is the subject of a communication already transmitted.[257]

74. The African Charter on Human and Peoples' Rights grants the African Commission on Human and Peoples' Rights the competence to deal with inter-State communications regarding violations of the provisions of the Charter.[258]

75. In terms of the procedure to be followed, the Convention on Racial Discrimination adopts a slightly different approach from that of the International Covenant on Civil and Political Rights and the Torture Convention. The Committee on the Elimination of Racial Discrimination transmits the communication to the State party concerned, which then submits written explanations or statements clarifying the matter and the remedy, if any, that it may have taken.[259] If the matter is not adjusted to the satisfaction of both parties and one party refers the matter once more to the Committee, the Committee will deal with the matter after ascertaining that "all available domestic remedies have been invoked and exhausted", except if the application of the remedies is unreasonably prolonged.[260] In line with the International Covenant on Civil and Political Rights and with the Torture Convention, the State party that considers that another State party is not giving effect to the provisions of the relevant treaty may bring the matter, by written communication, to the attention of the latter.[261] The receiving State is then required to provide the sending State with an explanation or any other statement in writing clarifying the matter, including information on remedies, if any.[262] If the matter is not adjusted to the satisfaction of both parties, either State has the right to refer the matter to the relevant committee.[263]

76. The African Charter on Human and Peoples' Rights envisages two possible avenues for a State to refer the matter to the African Commission on Human and Peoples' Rights.[264] First, the Charter provides that, if a State party to the Charter has

[255] Optional Protocol to the Convention on the Rights of the Child on a communications procedure, art. 12 (1).
[256] International Covenant on Civil and Political Rights, art. 41 (1); Torture Convention, art. 21 (1); Optional Protocol to the Convention on the Rights of the Child on a communications procedure, art. 12 (2).
[257] International Covenant on Civil and Political Rights, art. 41 (2); Torture Convention, art. 21 (2); Optional Protocol to the Convention on the Rights of the Child on a communications procedure, art. 12 (4).
[258] African Charter on Human and Peoples' Rights, art. 47.
[259] Convention on Racial Discrimination, art. 11 (1).
[260] Ibid., art. 11 (3).
[261] International Covenant on Civil and Political Rights, art. 41(1)(a); Torture Convention, art. 21(1)(a).
[262] International Covenant on Civil and Political Rights, art. 41(1)(a); Torture Convention, art. 21(1)(a).
[263] International Covenant on Civil and Political Rights, art. 41(1)(b); Torture Convention, art. 21(1)(b).
[264] African Charter on Human and Peoples' Rights, arts. 47-49.

reason to believe that another State party to the Charter has violated the provisions of the Charter, it may draw, by written communication, the attention of that State to the matter.[265] If, within three months from the date on which the original communication is received by the State to which it is addressed, the issue is not settled to the satisfaction of the two States involved through bilateral negotiation or by any other peaceful procedure, either State has the right to submit the matter to the Commission through its chairperson and shall notify the other States involved.[266] Second, the Charter allows a State party to "refer the matter directly to the Commission" if it "considers that another State party has violated the provisions of the Charter".[267] The communication must also be addressed to the "Chairman, to the Secretary General of the Organization of African Unity and the State concerned".[268] The Commission then may ask for information from the States concerned and, "after having tried all appropriate means to reach an amicable solution", it is required to issue a report stating the facts and its findings.[269] The report is then sent "to the States concerned and communicated to the Assembly of Heads of State and Government"[270] and the commission may make "recommendations as it deems useful".[271]

77. The Human Rights Committee and the Committee against Torture can deal with a matter referred to them only after having ascertained that all domestic remedies have been invoked and exhausted, as long as the application of the remedies is not unreasonably prolonged or is unlikely to bring effective relief.[272] The African Charter on Human and Peoples' Rights expressly provides that the African Commission on Human and Peoples' Rights can only deal with the communication "after making sure that all local remedies, if they exist, have been exhausted, unless it is obvious to the Commission that the procedure of achieving these remedies would be unduly prolonged".[273]

78. In relation to the outcome of the procedure, the Human Rights Committee and the Committee against Torture submit a report within 12 months after the referral of the matter. If a solution has been reached, the report is limited to a brief statement of the facts and of the solution reached. If, however, a solution is not reached, the report will contain a brief statement of facts together with the written submissions and record of the oral submissions of the parties.[274] In any case, the report is communicated to the States parties concerned.[275]

79. The Optional Protocol to the Convention on the Rights of the Child on a communications procedure does not contain procedural provisions in relation to inter-State communications similar to the International Covenant on Civil and Political Rights and the Torture Convention. However, those treaties provide for the

[265] Ibid., art. 47.
[266] Ibid., art. 48.
[267] Ibid., art. 49.
[268] Ibid.
[269] Ibid., art. 52.
[270] Ibid.
[271] Ibid., art. 53.
[272] International Covenant on Civil and Political Rights, art. 41(1)(c); Torture Convention, art. 21(1)(c).
[273] African Charter on Human and Peoples' Rights, art. 50.
[274] International Covenant on Civil and Political Rights, art. 41(1)(h), Torture Convention, art. 21(1)(h).
[275] International Covenant on Civil and Political Rights, art. 41(1)(h)(ii); Torture Convention, art. 21(1)(h)(ii).

respective committees to make available their good offices to the States parties concerned "with a view to a friendly solution of the matter".[276]

80. As to the establishment of ad hoc conciliation commissions under the Convention on Racial Discrimination and the International Covenant on Civil and Political Rights, their provisions, while similar in some respects, differ considerably in terms of the course of action to be followed by the respective committees and the commissions.

81. In accordance with the Convention on Racial Discrimination, after the Committee on the Elimination of Racial Discrimination "has obtained and collated all the information it deems necessary", its chairperson appoints an ad hoc conciliation commission.[277] The ad hoc conciliation commission makes its good offices available "with a view to an amicable solution of the matter" on the basis of respect for the Convention on Racial Discrimination.[278] Once the ad hoc conciliation commission has considered the matter fully, it prepares and submits to the chairperson of the Committee on the Elimination of Racial Discrimination "a report embodying its findings on all questions of fact relevant to the issue between the parties and containing such recommendations as it may think proper for the amicable solution of the dispute".[279] The report is communicated to the parties to the dispute, which have three months to inform the chairperson of the Committee on the Elimination of Racial Discrimination "whether or not they accept the recommendations contained in the report".[280] The chairperson also is required to communicate the report and the declarations of the States parties concerned to the other States parties to the Convention on Racial Discrimination.[281] The competence of the Committee on the Elimination of Racial Discrimination in relation to inter-State communications applies to all States parties to the Convention on Racial Discrimination.

82. According to the International Covenant on Civil and Political Rights, if the dispute is not resolved to the satisfaction of the States parties concerned, the Human Rights Committee may appoint, with the prior consent of the States concerned, an ad hoc conciliation commission with a view to reaching an amicable solution of the matter.[282] The ad hoc conciliation commission considers the matter and submits a report to the chairperson of the Human Rights Committee for communication to the States parties concerned. If the ad hoc conciliation commission is unable to complete its consideration of the matter within 12 months, it is required to confine its report to a brief statement of the status of its consideration of the matter. If "an amicable solution to the matter is reached on the basis of respect for human rights" as recognized in the International Covenant on Civil and Political Rights, the ad hoc conciliation commission confines its report to a brief statement of the facts and of the solution reached; if a solution within such terms is not reached, the report of the ad hoc conciliation commission includes its findings on all questions of fact relevant to the issues between the parties, and its views on the possibilities of an amicable solution of

[276] International Covenant on Civil and Political Rights, art. 41(1)(e); Torture Convention, art. 21(1)(e); Optional Protocol to the Convention on the Rights of the Child on a communications procedure, art. 12(3).
[277] Convention on Racial Discrimination, art. 12(1)(a).
[278] Ibid.
[279] Ibid., art. 13(1).
[280] Ibid., art. 13(2).
[281] Ibid., art. 13(3).
[282] International Covenant on Civil and Political Rights, art. 42(1)(a).

the matter, together with the written submissions and a record of the oral submissions made by the parties. If the report of the ad hoc conciliation commission is submitted pursuant to those terms, the parties are required to notify the chairperson of the Human Rights Committee within three months of the receipt of the report as to "whether or not they accept the contents of the report".[283]

83. The American Convention on Human Rights provides that the competence of the Inter-American Commission on Human Rights "to receive and examine communications in which a State Party alleges that another State Party has committed a violation of a human right" set forth in the American Convention on Human Rights is subject to a declaration of the State party recognizing the commission's competence to that effect.[284] Moreover, the communications may be admitted and examined only if they are presented by a State party that has made such a declaration and may not be admitted if they are presented against a State party that has not made the declaration.[285] Notably, the American Convention on Human Rights stipulates that the declarations may be "valid for an indefinite time, for a specified period, or for a specific case".[286]

84. The Inter-American Convention on the Forced Disappearance of Persons provides that "the processing of petitions or communications presented to the Inter-American Commission on Human Rights alleging the forced disappearance of persons shall be subject to the procedures established in the American Convention on Human Rights and to the Statute and Regulations of the Inter-American Commission on Human Rights and to the Statute and Rules of Procedure of the Inter-American Court of Human Rights".[287]

85. The procedure applicable to inter-State communications before the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights is the same as the one applicable to individual petitions.[288] The admissibility criteria of inter-State communications are substantially the same as those applicable to the individual petitions to the Inter-American Commission on Human Rights.[289] It is to be noted that, as in the case of individual petitions, the requirement for exhaustion of local remedies is not applicable when the domestic legislation of the State concerned does not afford due process of law for the protection of the right or rights that have allegedly been violated, when the party alleging violation has been denied access to the remedies under domestic law or has been prevented from exhausting them, or when there has been unwarranted delay in rendering a final judgment.[290]

86. The Convention on Enforced Disappearance stipulates that a State party "may at any time declare that it recognizes the competence of the [Committee on Enforced Disappearances] to receive and consider communications in which a State Party claims that another State Party is not fulfilling its obligations under this

[283] Ibid., art. 42(7).
[284] American Convention on Human Rights, art. 45(1).
[285] Ibid., art. 45(2).
[286] Ibid., art. 45(3).
[287] Inter-American Convention on the Forced Disappearance of Persons, art. XIII.
[288] See section III.B of the present memorandum.
[289] American Convention on Human Rights, arts. 46 and 47. See section III.B of the present memorandum; the only requirement that is not common to both procedures, as it is not applicable to inter-State communications, is the individualization of the petitioner by name, nationality, profession, domicile and signature.
[290] American Convention on Human Rights, art. 46(2).

Convention".[291] The provision also prescribes that communications may not be received if they concern or if they are submitted by a State which has not made such a declaration.[292]

D. Inquiries and visits

87. The following treaties contain procedures of inquiries and/or visits: the European Convention on Human Rights (article 52); Additional Protocol I to the Geneva Conventions (article 90); the Torture Convention (article 20); the Optional Protocol to the Convention on Discrimination against Women (article 8); the Optional Protocol to the Torture Convention; the Convention on Enforced Disappearance (article 33); and the Optional Protocol to the Convention on the Rights of the Child on a communications procedure (article 13).

1. Inquiries

88. The Committee against Torture, the Committee on the Elimination of Discrimination against Women, the Committee on Enforced Disappearances and the Committee on the Rights of the Child may initiate an inquiry upon receipt of reliable information indicating serious, grave or systematic violations by a State party of their respective constitutive instruments.[293]

89. The Torture Convention, the Optional Protocol to the Convention on Discrimination against Women and the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, contain substantially similar provisions in relation to inquiries. The Committee against Torture, the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child can designate one or more of their members to conduct an inquiry and to report back to the relevant committee.[294] The Committee against Torture can initiate such a procedure if it receives reliable information appearing to contain well-founded indications that "torture is being systematically practised in the territory of a State party" to the Torture Convention, and after taking into account any observations that may have been submitted by the State party concerned, upon invitation of the Committee against Torture, as well as any other reliable information available to it.[295] The Committee on the Elimination of Discrimination against Women can initiate an inquiry if it receives reliable information indicating "grave or systematic violations by a State Party of rights set forth in the [Convention on Discrimination against Women]", and after taking into account any observations that may have been submitted by the State party concerned, upon invitation of the Committee on the Elimination of Discrimination against Women, as well as any other reliable

[291] Convention on Enforced Disappearance, art. 32.

[292] Ibid.

[293] Torture Convention, art. 20; Optional Protocol to the Convention on Discrimination against Women, art. 8; Convention on Enforced Disappearance, art. 33 (the convention refers to "undertake a visit" rather than inquiry); Optional Protocol to the Convention on the Rights of the Child on a communications procedure, art. 13.

[294] Torture Convention, art. 20(2); Optional Protocol to the Convention on Discrimination against Women, art. 8(2); Optional Protocol to the Convention on the Rights of the Child on a communications procedure, art. 13(2).

[295] Torture Convention, art. 20(1) and (2).

information available to it.[296] The Committee on the Rights of the Child can initiate an inquiry after receiving reliable information indicating "grave or systematic violations by a State party of rights set forth in the [Convention on the Rights of the Child] or in the Optional Protocols thereto on the sale of children, child prostitution and child pornography or on the involvement of children in armed conflict", and after taking into account any observations that might have been submitted by the State party concerned, upon invitation of the Committee on the Rights of the Child, as well as any other reliable information available to it.[297]

90. The three above-mentioned treaties provide that the inquiries can include a visit to the State party's territory, should the State agree to it and if warranted.[298] The findings of the inquiry are to be transmitted to the State party concerned by the relevant committee, together with any comments, suggestions or recommendations.[299] In the case of the Optional Protocol to the Convention on Discrimination against Women and of the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, the State party concerned must submit its observations to the relevant committee within six months of receiving the findings, comments and recommendations.[300] The Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child can invite the State party concerned, if necessary, after the end of such six-month period, to inform it of the measures taken in response to the inquiry.[301]

91. The procedure is conducted confidentially and the cooperation of the State party concerned is sought at all times.[302] The Committee against Torture and the Committee on the Rights of the Child, after consultations with the State party concerned, may include a summary of the results of the proceedings in its annual report.[303] The Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child can invite the State party concerned to include in its periodical report details or further information of any measures taken in response to an inquiry.[304]

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[296] Optional Protocol to the Convention on Discrimination against Women, art. 8(1) and (2).

[297] Optional Protocol to the Convention on the Rights of the Child on a communications procedure, art. 13(1) and (2).

[298] Torture Convention, art. 20(3); Optional Protocol to the Convention on Discrimination against Women, art. 8(2); Optional Protocol to the Convention on the Rights of the Child on a communications procedure, art. 13(2).

[299] Torture Convention, art. 20(4); Optional Protocol to the Convention on Discrimination against Women, art. 8(3); Optional Protocol to the Convention on the Rights of the Child on a communications procedure, art. 13(4).

[300] Optional Protocol to the Convention on Discrimination against Women, art. 8(4); Optional Protocol to the Convention on the Rights of the Child on a communications procedure, art. 14(1), which also makes reference to measures "envisaged". The Torture Convention does not contain an equivalent provision on the matter.

[301] Optional Protocol to the Convention on Discrimination against Women, art. 9(2).

[302] Torture Convention, art. 20(5); Optional Protocol to the Convention on Discrimination against Women, art. 8(5); Optional Protocol to the Convention on the Rights of the Child on a communications procedure, art. 13(3).

[303] Torture Convention, art. 20(5); Optional Protocol to the Convention on the Rights of the Child on a communications procedure, art. 13(6).

[304] Optional Protocol to the Convention on Discrimination against Women, art. 9(1); Optional Protocol to the Convention on the Rights of the Child on a communications procedure, art. 14(2).

92. The approach of the Convention on Enforced Disappearance differs from that of the Torture Convention and the Optional Protocol to the Convention on Discrimination against Women. It provides that the Committee on Enforced Disappearances, after consultation with the State party concerned, may "request one or more of its members to undertake a visit and report back to it without delay" if it receives "reliable information indicating that a State Party is seriously violating the provisions [of the Convention on Enforced Disappearance]".[305] The Committee on Enforced Disappearances "shall notify" the State party concerned of its intention to undertake a visit, which may be postponed or cancelled if the State party concerned presents "a substantiated request" to that effect.[306] On the other hand, if the State party agrees to the visit, it is required to work together with the Committee on Enforced Disappearances to define the modalities of the visit.[307] Following the visit, the Committee on Enforced Disappearances must communicate to the State party concerned its observations and recommendations.[308]

93. The International Humanitarian Fact-Finding Commission, established in accordance with article 90 of Additional Protocol I to the Geneva Conventions, may have the competence to inquire into any facts alleged to be a grave breach as defined in the Geneva Conventions and Additional Protocol I or other serious violation of the Conventions or the Protocol, depending on the recognition of such competence by the relevant States parties to the Protocol.[309] Additional Protocol I also sets forth that, in other situations, the Commission "shall institute an enquiry at the request of a Party to the conflict only with the consent of the other Party or Parties concerned".[310] The inquiries are undertaken by a chamber composed of members of the Commission and ad hoc members. The Commission is required to submit to the parties concerned a report on the findings of fact of the chamber conducting the inquiry, with such recommendations as it may deem appropriate.[311] Unless all the parties to the conflict request the Commission to do so, the Commission cannot report its findings publicly.[312]

94. The European Convention on Human Rights contains a provision regarding inquiries by the Secretary General of the Council of Europe. It states that upon receipt of a request from the Secretary-General, any party to the European Convention on Human Rights "shall furnish an explanation of the manner in which its internal law ensures the effective implementation of any of the provisions of the Convention".[313]

2. Visits

95. In relation to the Optional Protocol to the Torture Convention, it should be highlighted that one of the primary functions of the Subcommittee on Prevention of Torture is to undertake visits to States parties to the Protocol. The other primary function is closely linked to advising and providing assistance to States parties on

[305] Convention on Enforced Disappearance, art. 33 (1).
[306] Ibid., art. 33(2) and (3).
[307] Ibid., art. 33(4).
[308] Ibid., art. 33 (5).
[309] Additional Protocol I, art. 90(2)(a) and (c)(i).
[310] Ibid., art. 90(2)(d).
[311] Ibid., art. 90(5)(a).
[312] Ibid., art. 90(5)(c).
[313] European Convention on Human Rights, art. 52.

the implementation of the Protocol, in particular on the establishment, or on the work, of national preventive mechanisms.

96. Article 1 of the Optional Protocol to the Torture Convention provides that the objective of the Protocol is "to establish a system of regular visits undertaken by independent international and national bodies to places where people are deprived of their liberty, in order to prevent torture and other cruel, inhuman or degrading treatment or punishment".[314] Accordingly, the Subcommittee on Prevention of Torture may visit any State party to the Protocol.

97. Each State party to the Optional Protocol to the Torture Convention undertakes to set up, designate or maintain at the domestic level one or several "visiting bodies", referred to as national preventive mechanisms.[315] The States parties also undertake to allow visits by the Subcommittee on Prevention of Torture and by the national preventive mechanisms "to any place under its jurisdiction and control where persons are or may be deprived of their liberty (...) with a view to strengthening, if necessary, the protection of these persons".[316] The States parties to the Protocol further agree to grant to the Subcommittee on Prevention of Torture unrestricted access to a range of information and places. Objections to visits may be made "only on urgent and compelling grounds of national defence, public safety, natural disaster or serious disorder in the place to be visited that temporarily prevent the carrying out of such a visit".[317] The Subcommittee is also able to interview, in private, persons deprived of their liberty and any other person who in its view may be able to assist it with relevant information.[318]

98. In relation to the national preventive mechanisms, the Subcommittee on Prevention of Torture advises and assists States parties in their establishment when necessary; maintains contact with the national preventive mechanisms and offers them training and technical assistance with a view to strengthening their capacities; advises and assists them in the evaluation of the needs and the means necessary to strengthen the protection of persons deprived of their liberty against torture or other cruel, inhuman or degrading treatment or punishment; and makes recommendations and observations to the States parties with a view to strengthening the capacity and the mandate of the national preventive mechanisms for the prevention of torture and other cruel, inhuman or degrading treatment or punishment.[319]

99. The Subcommittee on Prevention of Torture conducts such visits and makes recommendations to States parties concerning the protection of persons deprived of their liberty.[320] Its recommendations and observations are communicated to the State party in confidence and, if relevant, to the national preventive mechanism. The Subcommittee on Prevention of Torture publishes its report, together with any comments of the State party concerned, whenever requested to do so by that State

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[314] Under article 13(1) of the Optional Protocol to the Torture Convention, the Subcommittee on Prevention of Torture "shall establish, at first by lot, a programme of regular visits to the States Parties in order to fulfil its mandate". Article 13(4) provides that the Subcommittee on Prevention of Torture, if it deems appropriate, "may propose a short follow-up visit after a regular visit".

[315] Optional Protocol to the Torture Convention, art. 3.

[316] Ibid., art. 4(1).

[317] Ibid., art. 14(2).

[318] Ibid., art. 14(1)(d).

[319] Ibid., art. 11(b).

[320] Ibid., art. 11(a).

party.[321] In case the State party refuses to cooperate with the Subcommittee, or to take steps to "improve the situation in the light of the recommendations", the Committee against Torture may decide, at the request of the Subcommittee and after the State party has had the opportunity to make its views known, to make a public statement on the matter or to publish the report of the Subcommittee.[322]

100. In view of the above, the Subcommittee on Prevention of Torture may conduct three types of visits: regular country visits to places of detention where persons may be deprived of their liberty;[323] country follow-up visits, after a country visit and to gather new information on developments and verify how its recommendations are being implemented;[324] and national preventive mechanisms advisory visits, aimed at supporting and reinforcing the national preventive mechanisms' mandate through advice, assistance and capacity-building activities.[325]

E. Urgent action

101. Article 30 of the Convention on Enforced Disappearance establishes an urgent action procedure before the Committee on Enforced Disappearances to trace a disappeared person.

102. Relatives of a disappeared person (or their legal representatives, counsel or any person authorized by them) may submit a request to the Committee on Enforced Disappearances that "a disappeared person should be sought and found", as a matter of urgency.[326] The Committee on Enforced Disappearances only considers the request if it is not manifestly unfounded; it does not constitute an abuse of the right of submissions of such request; it has already been duly presented to the competent bodies of the State party concerned; it is not incompatible with the provisions of the Convention on Enforced Disappearance; and the same matter is not being examined under another procedure of international investigation or settlement of the same nature.[327]

103. The Committee on Enforced Disappearances can transmit recommendations to the State party concerned, taking into account any information that may have been provided by the State upon the Committee's solicitation. The recommendations may include a request for the State party to take all the necessary measures to locate and protect the person concerned, as well as to inform the Committee, within a specified period of time, of the measures taken.[328]

104. The Committee on Enforced Disappearances is required to inform the person submitting the urgent action request of its recommendations and of the information

[321] Ibid., art. 16(1) and (2).
[322] Ibid., art. 16(4).
[323] Ibid., arts. 11(a) and 13(1), (2) and (3).
[324] Ibid., art. 13(4).
[325] Ibid., art. 11(b). The Subcommittee also conducts more general short visits (so-called "Optional Protocol advisory visits") to advise States parties to the Optional Protocol to the Torture Convention and assist them in fully implementing their obligations. These are broadly based on the functions envisaged in the Optional Protocol to the Torture Convention, arts. 2(4) and 12(d). See www.ohchr.org/EN/HRBodies/OPCAT/Pages/AdvisoryVisits.aspx.
[326] Convention on Enforced Disappearance, art. 30 (1).
[327] Ibid., art. 30(2).
[328] Ibid., art. 30(3).

provided to it by the State party as it becomes available.[329] The Committee must continue its efforts to work with the State party concerned as long as "the fate of the person sought remains unresolved".[330]

F. Information provided at meetings of States parties

105. The African Charter on Human and Peoples' Rights provides that if it appears to the African Commission on Human and Peoples' Rights "that one or more communications apparently relate to special cases which reveal the existence of a series of serious or massive violations of human and peoples' rights", the Commission can draw the attention of the Assembly of Heads of State and Government "to these special cases".[331] The Assembly of Heads of State and Government may request the Commission to "undertake an in-depth study of these cases and make a factual report, accompanied by its findings and recommendations".[332] Further, in cases of emergency, the Commission can submit the matter to the chairperson of the Assembly of Heads of State and Government, who may request "an in-depth study".[333]

106. The Convention on Enforced Disappearance establishes that if the Committee on Enforced Disappearances "receives information which appears to it to contain well-founded indications that enforced disappearance is being practised on a widespread or systematic basis in the territory under the jurisdiction of a State Party [to the Convention on Enforced Disappearance]", the Committee may, after seeking from the State party concerned all relevant information on the situation, bring the matter to the urgent attention of the General Assembly of the United Nations, through the Secretary-General.[334]

107. According to the Great Lakes Region Protocol, the Great Lakes Region Committee is responsible, inter alia, for alerting the Summit of the International Conference on the Great Lakes Region in order for it to take urgent measures to prevent potential instances of genocide, war crimes and crimes against humanity on the basis of the information it collects and analyses.[335]

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[329] Ibid.
[330] Ibid., art. 30(4).
[331] African Charter on Human and Peoples' Rights, art. 58(1).
[332] Ibid., art. 58(2).
[333] Ibid., art. 58(3).
[334] Convention on Enforced Disappearance, art. 34.
[335] Great Lakes Region Protocol, art. 38(2).

Annex I

Treaties and institutions

No.	*Treaty*	*Date of adoption*	*Monitoring institutions*	*Reference*
1.	Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights)	4 November 1950	European Court of Human Rights Secretary General of the Council of Europe	United Nations, *Treaty Series*, vol. 213, No. 2889, p. 221
2.	International Convention on the Elimination of All Forms of Racial Discrimination	21 December 1965	Committee on the Elimination of Racial Discrimination Ad hoc conciliation commissions	United Nations, *Treaty Series*, vol. 660, No. 9464, p. 195
3.	International Covenant on Civil and Political Rights	16 December 1966	Human Rights Committee Ad hoc conciliation commissions	United Nations, *Treaty Series*, vol. 999, No. 14668, p. 171
4.	First Optional Protocol to the International Covenant on Civil and Political Rights	16 December 1966	Human Rights Committee (see International Covenant on Civil and Political Rights)	United Nations, *Treaty Series*, vol. 999, No. 14668, p. 171
5.	American Convention on Human Rights "Pact of San José, Costa Rica"	22 November 1969	Inter-American Commission on Human Rights Inter-American Court of Human Rights	United Nations, *Treaty Series*, vol. 1144, No. 17955, p. 143
6.	International Convention on the Suppression and Punishment of the Crime of Apartheid	30 November 1973	"Group of three" of the Commission on Human Rights	United Nations, *Treaty Series*, vol. 1015, No. 14861, p. 243
7.	Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I)	8 June 1977	International Humanitarian Fact-Finding Commission Meetings of the High Contracting Parties	United Nations, *Treaty Series*, vol. 1125, No. 17512, p. 3
8.	Convention on the Elimination of all Forms of Discrimination against Women	18 December 1979	Committee on the Elimination of Discrimination against Women	United Nations, *Treaty Series*, vol. 1249, No. 20378, p. 13
9.	African Charter on Human and Peoples' Rights	27 June 1981	African Commission on Human and Peoples' Rights	United Nations, *Treaty Series*, vol. 1520, No. 26363, p. 217
10.	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	10 December 1984	Committee against Torture	United Nations, *Treaty Series*, vol. 1465, No. 24841, p. 85

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No.	Treaty	Date of adoption	Monitoring institutions	Reference
11.	Inter-American Convention to Prevent and Punish Torture	12 September 1985	Inter-American Commission on Human Rights (see American Convention on Human Rights)	OAS, *Treaty Series*, No. 67
12.	Convention on the Rights of the Child	20 November 1989	Committee on the Rights of the Child	United Nations, *Treaty Series*, vol. 1577, No. 27531, p. 3
13.	Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty	15 December 1989	Human Rights Committee (see International Covenant on Civil and Political Rights)	United Nations, *Treaty Series*, vol. 1642, No. 14668, p. 414
14.	Inter-American Convention on the Forced Disappearance of Persons	9 June 1994	Inter-American Commission on Human Rights (see American Convention on Human Rights)	OAS, *Treaty Series*, No. 68
15.	Convention on the Safety of United Nations and Associated Personnel	9 December 1994	Meeting of the States parties	United Nations, *Treaty Series*, vol. 2051, No. 35457, p. 363
16.	Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights	9 June 1998	African Court on Human and Peoples' Rights	OAU/LEG/EXP/AFCHPR/PROT (III)
17.	Rome Statute of the International Criminal Court	17 July 1998	Assembly of States Parties to the Rome Statute	United Nations, *Treaty Series*, vol. 2187, No. 38544, p. 3
18.	Optional Protocol to the Convention on the Elimination of all Forms of Discrimination against Women	6 October 1999	Committee on the Elimination of Discrimination against Women (see Convention on the Elimination of all Discrimination against Women)	United Nations, *Treaty Series*, vol. 2131, No. 20378, p. 83
19.	Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography	25 May 2000	Committee on the Rights of the Child (see Convention on the Rights of the Child)	United Nations, *Treaty Series*, vol. 2171, No. 27531, p. 227
20.	Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict	25 May 2000	Committee on the Rights of the Child (see Convention on the Rights of the Child)	United Nations, *Treaty Series*, vol. 2173, No. 27531, p. 222
21.	United Nations Convention against Transnational Organized Crime	15 November 2000	Conference of the Parties to the Convention	United Nations, *Treaty Series*, vol. 2225, No. 39574, p. 209

No.	Treaty	Date of adoption	Monitoring institutions	Reference
22.	Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	18 December 2002	Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of the Committee against Torture National preventive mechanisms	United Nations, *Treaty Series*, vol. 2375, No. 2484 i, p. 237
23.	International Conference on the Great Lakes Region of Africa, Protocol for the Prevention and the Punishment of the Crime of Genocide, War Crimes and Crimes Against Humanity and all forms of Discrimination	29 November 2006	Committee for the prevention and the punishment of the crime of genocide, war crimes and crimes against humanity and all form of discrimination	Available from www.icglr.org/images/LastPDF/Protocol_on_Crime_Prevention_and_Punishment_of_the_Crime_of_Geno.pdf
24.	International Convention for the Protection of all Persons from Enforced Disappearance	20 December 2006	Committee on Enforced Disappearances	United Nations, *Treaty Series*, vol. 2716, No. 48088, p. 3
25.	Optional Protocol to the Convention on the Rights of the Child on a communications procedure	19 December 2011	Committee on the Rights of the Child (see Convention on the Rights of the Child)	General Assembly resolution 66/138, annex

Annex II

Monitoring procedures

Treaty	*Institutions*	*Type (committee, commission, court, assembly, meeting or conference) and composition*	*Reporting procedure*	*Individual complaints, applications or communications*	*Inter-State applications or communications*	*Inquiries and visits*	*Other procedures (urgent actions, information to assemblies, etc.) or other remarks*
Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights)	European Court of Human Rights	Court: number of judges equal to that of High Contracting Parties (art. 20)		Individual applications (art. 34)	Inter-State applications (art. 33)		Advisory jurisdiction (art. 47)
	Secretary General of the Council of Europe					Inquiries by the Secretary General (art. 52)	
International Convention on the Elimination of All Forms of Racial Discrimination	Committee on the Elimination of Racial Discrimination	Committee: 18 experts (art. 8(1))	Reports by States parties (a) within one year after the entry into force of the Convention for the State concerned; (b) thereafter every two years (art. 9(1))	Individual communications, upon declaration by States parties (art 4(1))	Inter-State communications (art. 11(1))		
	Ad hoc conciliation commissions	Commission: 5 members (art. 12(1))			Unresolved inter-State communications (art. 12(1))		
International Covenant on Civil and Political Rights	Human Rights Committee	Committee: 18 members (art. 28(1))	Reports by States parties (a) within one year of the entry into force of Covenant for the State party concerned; (b) thereafter whenever the Committee so requests (art. 40(1))		Inter-State communications, upon declaration by States Parties (art. 41(1))		
	Ad hoc conciliation commissions	Commission: 5 members (art. 42(1) and (2))			Unresolved inter-State communications (art. 42(1)(a))		

Treaty	*Institutions*	*Type (committee, commission, court, assembly, meeting or conference) and composition*	*Reporting procedure*	*Individual complaints, applications or communications*	*Inter-State applications or communications*	*Inquiries and visits*	*Other procedures (urgent actions, information to assemblies, etc.) or other remarks*
First Optional Protocol to the International Covenant on Civil and Political Rights	Human Rights Committee (see International Covenant on Civil and Political Rights)			Individual communications (art. 1)			
American Convention on Human Rights "Pact of San José, Costa Rica"	Inter-American Commission on Human Rights	Commission: 7 members (art. 34)	Copies of reports by States parties to Executive Committees of the Inter-American Economic and Social Council and the Inter-American Council for Education, Science and Culture (art. 42)	Individual petitions (art. 44)	Inter-State communications, upon declaration by States parties (art. 45(1))		
	Inter-American Court of Human Rights	Court: 7 judges (art. 52(1))		Submissions by the Commission on the basis of individual petitions (art. 61(1))	Inter-State cases unresolved by the Commission, upon declaration by States parties or by special agreement (art. 61(1), 62)		Advisory jurisdiction (art. 64(1) and (2))
International Convention on the Suppression and Punishment of the Crime of Apartheid	"Group of three" appointed by the Chairman of the Commission on Human Rights	"Group": three members of the Commission on Human Rights (art. IX(1))	Periodic reports by States parties to the "group" (art. VII(1)) and to the Special Committee on Apartheid (art. VII(2))				
Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of	International Humanitarian Fact-Finding Commission	Commission: 15 members (art. 90(1)(a))				Inquiries by a chamber consisting of five members of the Commission and two ad hoc members (art. 90(3))	

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International Armed Conflicts (Protocol I)	Meetings of the High Contracting Parties	Meeting: at the request of one or more of the High Contracting Parties (art. 7)					Consider general problems concerning the application of the Geneva Conventions and the Protocol (art.7)
Convention on the Elimination of all Forms of Discrimination against Women	Committee on the Elimination of Discrimination against Women	Committee: 23 experts (art. 17(1))	Reports by States parties (a) within a year after the entry into force of the Convention; (b) thereafter at least every 4 years (art. 18(1))				
African Charter on Human and Peoples' Rights	African Commission on Human and Peoples' Rights	Commission: 11 members (art. 31(1))	Reports by States parties every two years (art. 62)	Communications from entities other than States parties (art. 55)	Inter-State communications (art. 47)		
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	Committee against Torture	Committee: 10 experts (art. 17(1))	Reports by States parties within one year after the entry into force of the Convention; thereafter every four years (art. 19(1))	Individual communications, upon declaration by States parties (art. 22(1))	Inter-State communications, upon declaration by States parties (art. 21(1))	Confidential inquiries and visits (art. 20(2) and (3))	
Inter-American Convention to Prevent and Punish Torture	Inter-American Commission on Human Rights (see American Convention on Human Rights)		Information by States parties (art. 17)				
Convention on the Rights of the Child	Committee on the Rights of the Child	Committee: 10 experts (art. 43(2))	Reports by States parties (a) within two years of the entry into force of the Convention; (b) thereafter every five years. (art. 44(1))				International cooperation with specialized agencies, the United Nations Children's Fund and other competent bodies (art. 45)

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Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty	Human Rights Committee (see International Covenant on Civil and Political Rights)		Information on measures relating to the Protocol to be included in reports of States parties under art. 40 of the Covenant (art. 3)	Individual communications with respect to States parties to the first Optional Protocol to the Covenant, unless a contrary statement is made (art. 5)			
Inter-American Convention on the Forced Disappearance of Persons	Inter-American Commission on Human Rights (see American Convention on Human Rights)			Individual communications (art. XIII)	Inter-State communications (art. XIII)		
Convention on the Safety of United Nations and Associated Personnel	Meeting of the States Parties	Review meeting: all States parties (art. 23)					
Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights	African Court on Human and Peoples' Rights	Court: 11 judges (art. 11(1))		Individual petitions and petitions from non-governmental organizations with observer status before the African Commission on Human and Peoples' Rights, either by submission of the African Commission on Human and Peoples' Rights (art. 5(1)(a)), or directly upon declaration by States parties (arts. 5(3) and 34(6))	Inter-State communications (art. 5(1) and (2))		Advisory jurisdiction (art. 4(1))

Treaty	*Institutions*	*Type (committee, commission, court, assembly, meeting or conference) and composition*	*Reporting procedure*	*Individual complaints, applications or communications*	*Inter-State applications or communications*	*Inquiries and visits*	*Other procedures (urgent actions, information to assemblies, etc.) or other remarks*
Rome Statute of the International Criminal Court	Assembly of States Parties to the Rome Statute	Assembly: one representative for each State party (art. 112(1))	Court refers findings of State non-cooperation (arts. 87(5) and (7) and 112(2)(f)				Establishment of subsidiary bodies for inspection, evaluation and investigation of the Court (art. 112(4))
Optional Protocol to the Convention on the Elimination of all Forms of Discrimination against Women	Committee on the Elimination of Discrimination against Women (see Convention on the Elimination of all Forms of Discrimination against Women)		Information on the measures taken in response to an inquiry to be included in the report under Art. 18 of the Convention on the Elimination of all Forms of Discrimination against Women (art. 9(1))	Individual communications (art. 2)			Request to States parties to take interim measures (art. 5(1))
Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography	Committee on the Rights of the Child (see Convention on the Rights of the Child)		Reports by States parties within two years following the entry into force of the Protocol (art. 12(1))				
			Information relating to the implementation of the Protocol to be included in the reports of States parties under art. 44 of the Convention on the Rights of the Child (art. 12(2))				
			Reports by other States parties every five years (art. 12(2))				

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Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict	Committee on the Rights of the Child (see Convention on the Rights of the Child)		Reports by States parties within two years following the entry into force of the Protocol (art. 8(1)) Information relating to the implementation of the Protocol to be included in the reports of State parties under art. 44 of the Convention (art. 8(2)) Reports by other States parties every five years (art. 8 (2))				
United Nations Convention against Transnational Organized Crime	Conference of the Parties to the Convention	Conference: all States parties (art. 32(1))	Information by States parties (art. 32(5))				
Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of the Committee against Torture	Subcommittee: 25 members (10 members prior to the 50th ratification) (arts. 2(1) and 5(1))				Visits to any place where persons are or may be deprived of their liberty (arts. 4(1) and 11(a))	
	National preventive mechanisms	Visiting body (Art. 3)				Visits to any place where persons are or may be deprived of their liberty (art. 4(1))	

Treaty	*Institutions*	*Type (committee, commission, court, assembly, meeting or conference) and composition*	*Reporting procedure*	*Individual complaints, applications or communications*	*Inter-State applications or communications*	*Inquiries and visits*	*Other procedures (urgent actions, information to assemblies, etc.) or other remarks*
International Conference on the Great Lakes Region of Africa, Protocol for the Prevention and the Punishment of the Crime of Genocide, War Crimes and Crimes Against Humanity and all forms of Discrimination	Committee for the prevention and the punishment of the crime of genocide, war crimes, crimes against humanity and all forms of discrimination	Committee: one person from each member State (art. 27(1))					Alerting the Summit of the Conference to take urgent measures (art. 38(2)(c))
International Convention for the Protection of all Persons from Enforced Disappearance	Committee on Enforced Disappearances	Committee: 10 experts (art. 26(1))	Reports by States parties within two years following the entry into force of the Convention (art. 29)	Individual communications, upon declaration by States parties (art. 31(1))	Inter-State communications, upon declaration by States parties (art. 32)	Inquiries and visits (art. 33)	Urgent actions (art. 30) Information to the United Nations General Assembly (art. 34)
Optional Protocol to the Convention on the Rights of the Child on a communications procedure	Committee on the Rights of the Child (see Convention on the Rights of the Child)		Follow-up procedure relating to any action taken by States Parties as regards recommendations of the Committee and implementation of friendly settlements (art. 11)	Individual communications (art. 5)	Inter-State communications, upon declaration of States parties (art. 12(1))	Inquiries and visits (art. 13(2))	Request to States parties to take interim measures (art. 6(1))